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CIS

FISCAL DISPARITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

PART 3

PAYMENTS IN LIEU OF TAXES

NOVEMBER 4, 1981

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FISCAL DISPARITIES

WEDNESDAY, NOVEMBER 4, 1981

U.S. SENATE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 9:07 a.m., in room 357, Russell Senate Office Building, Hon. Dave Durenberger (chairman of the subcommittee) presiding.

Present: Senator Durenberger.

OPENING STATEMENT OF SENATOR DURENBERGER

Senator DURENBERGER. The hearing will come to order.

Today we hold the third in a series of hearings on the subject of fiscal disparities and the effect of various Federal policies on financing State and local governments. The subject of specific focus today will be a whole set of Federal programs which make payments to State and local governments in lieu of property taxes. These are payments made to compensate State and local governments for their loss in revenue due to the presence of tax exempt Federal property.

The Federal Government presently owns property conservatively valued at almost $300 billion. Approximately one-fourth of this property—by value—is in the form of mineral lands, grazing lands, national park and forest lands, wilderness areas, and water resource projects. These holdings are frequently referred to as Federal open lands.

The other three-fourths—again by value—consists of what is commonly called Federal non-open-space property, or Federal real property. This property breaks down into two basic types: Structure and facilities make up one-fourth of the total Federal property by value. The second type of non-open-space property consists of buildings, and comprises about one-half of the total Federal holdings.

Nearly all of this property is exempt from State and local taxes. In recognition of this fact, Congress has passed a variety of specific programs over the years to compensate State and local governments for the lost tax revenues which result from the tax-exempt status of Federal property. There were 57 different specific programs at last count.

There are several reasons for considering the subject of payments in lieu of taxes in the context of fiscal disparities hearings. By "fiscal disparities" I mean the increasingly large differences among State and local governments in their capability to finance

public services. I do not mean the natural diversity among areas that results from an open and dynamic economy. Rather, I use fiscal disparities to refer to those differences that arise unnaturally because of the action of policy of some level of government. Fiscal disparities, then, is first and foremost a problem of federalism.

When, for example, the Federal Government pursues a policy of decontrolling the price of energy so that it rises to a level determined by the cartel pricing of oil, there are substantial effects on State and local governments. A few States, with the ability to raise millions from severance taxes, benefit enormously from this Federal policy. Most, however, suffer from it. When, on top of these federally induced disparities, we introduce a new concept of federalism, the effects are compounded even further.

The Federal policy of decontrol may be a good one. However, we are sensitive to the potential fiscal disparities which result as a by-product. It is immediately clear that such a policy is inadequate in isolation. A corresponding Federal policy is necessary to mitigate the ripple effects—or the fiscal fallout—that work to widen the gap among the fiscal capacities of lower levels of government.

One question we want to answer by this hearing is whether the tax-exempt status of Federal property leads to fiscal disparities. In a similar vein, we must ask whether Federal policies crafted to remedy the erosion of State and local tax bases create or worsen fiscal disparities. The erosion may be a problem, but the Federal correction may produce even worse results in the form of additional disparities.

In the case of open lands, Congress has passed the Payments in Lieu of Taxes Act of 1976. There is good reason to suspect that this law does, in fact, perpetuate fiscal disparities among those States with Federal open lands.

In the case of non-open-space property, there does not exist a comprehensive program. There are 56 patchwork programs. This patchwork system of payments has been criticized as being fragmented, uncoordinated, and inequitable. The subcommittee will hear from witnesses today who advocate a comprehensive, full tax equivalency system to replace the present system. This is an important intergovernmental relations issue and deserves to be heard.

In addition to considering, on their own merit, proposals to change the present system of non-open-space compensation, the subcommittee desires to consider the payments in lieu of taxes concept, in its totality, as a question of federalism. For example, a long standing tenet of American federalism is the immunity doctrine laid down in *McCulloch* v. *Maryland*. This doctrine holds that the Federal Government is immune from taxation by a State and its political subunits.

Any payments in lieu of taxes program must first come to grips with the immunity doctrine. In the past, Congress has, in effect, sidestepped its provisions on a case-by-case basis when the Federal presence was thought to be especially burdensome. Hence we arrived at the 56 separate programs. The Superior National Forest land program for the State of Minnesota is just such a program. From one perspective this patchwork is undesirable and should be replaced with a comprehensive, uniform system of payments. From another perspective, however, this patchwork is evidence that Con-

gress steps lightly around the immunity doctrine and circumvents its strictures only in special cases.

In 1976 Congress went a step further by treating open space land as entitlement land. The Payments in Lieu of Taxes Act of 1976 established a comprehensive PILT program for open lands based on the premise—an erroneous premise, I believe—that all open space land was especially burdensome because it has a very low revenue-generating capacity. We want to examine this premise closely today.

Now the Congress is being urged to go even further. Many, including ACIR, advocate that we, for all practical purposes, breach the immunity doctrine by passing a comprehensive, full tax equivalency PILT program for real property. This would have the effect of permitting State and local governments to treat the Federal Government exactly as any other private property owner for purposes of tax equivalency payments.

There is another important question we will examine today. Given the absence of a comprehensive program for non-open-space property, does the existing entitlement program for open lands widen fiscal disparities between the States which contain these two different types of Federal property?

The issues we will examine are basic questions of American federalism and are always of concern to the subcommittee in its oversight capacity. These same issues become crucial in a time when our notion of federalism is undergoing a fundamental change. As we proceed to study the specifics of payments in lieu of taxes—as important as they are on their own—I hope we do not lose sight of these larger questions.

Our first witness was to be the Secretary of the Interior. I understand that the Assistant Secretary is here.

Mr. Carruthers, would you like to come up? Is anybody else coming up with you.

Why don't you proceed. Are you going to give the Secretary's statement?

Mr. CARRUTHERS. Yes, I will comment on that.

TESTIMONY OF GARREY E. CARRUTHERS, ASSISTANT SECRETARY—LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY BOB BURFORD, DIRECTOR BUREAU OF LAND MANAGEMENT; AND ARNOLD PETTY, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT

Mr. CARRUTHERS. Thank you, Mr. Chairman. It is a pleasure to visit with the subcommittee regarding payments in lieu of taxes and other matters. I have with me Mr. Bob Burford, Director of the Bureau of Land Management. He is versed on payments in lieu of taxes issues from his former role in Colorado. I also have with me Mr. Arnie Petty, who is Deputy Director of Land Management, and a veteran BLM manager. He has worked on PILT issues since about the turn of the century. Arnie has informed me he has worked through so many administrations he can work through both sides of it.

I want to request my statement be entered into the record. I will summarize the statement with hopefully a few conversation-provoking comments.

Rejecting totally that old saying that "anything put in a nutshell probably belongs there," in a nutshell, we in the Department of the Interior like the payments in lieu of taxes program as applied to open space Federal property. And, in a nutshell, it obviously supports our concept of federalism, but is not all there is to federalism in this administration.

Now the payments in lieu of taxes program does provide minimum payments to counties containing entitlement, and those lands, as you stated, are not subject to State and local tax. We think that is easily justified, as counties do provide services to lands. Albeit these services are minimum, they do cost money. As a consequence, the payments in lieu of taxes program does lessen the disparity that exists in many counties, particularly in the Western United States.

We also believe, as stated in the testimony, that the program does need some modification. We have asked the Congress to add to current legislation six additional revenue sharing programs to section 4 deductions just to make the PILT legislation consistent for all open space lands. We have also asked that the fee lands of the National Wildlife Refuge System be included as entitlements just to insure equitable treatment of all lands. We have asked that the Congress authorize deduction of all revenues paid to a State, not just those revenues that are passed through to local governments. This is merely a way to overcome definitional problems that exist throughout many States and does recognize in federalism the State's authority to distribute Federal funds.

We believe that PILT should be applied to open space lands. The developed Federal property contributes significantly to the tax base of the community already. The open spaces may be so extensive as to exempt most of the tax base of some counties. In fact, in my home county of Dona Ana in New Mexico, about 70 percent of the land is BLM land and is not subject to energy development or any other development. That is a substantial part of the county. There is a need to pay for services ongoing on those public lands that are of consequence to the community.

So, we believe in many western counties, in particular, where we have a substantial acreage of open space, that the payments in lieu of taxes program should be applied.

Now the payments in lieu of taxes program is federalism, surely, because it does return funds to State and local governments, and that is part of federalism. But most of all we support the program because the State and local governments can choose the services to provide as a consequence of having Federal lands. They can choose these services based on local needs, or tastes and preferences, or customs, or any other criteria they may choose. But it is up to State and local governments that they continue to maintain that option.

But the payments in lieu of taxes program is not all there is to federalism in this administration. As you are well aware, in the discussion of tax cuts and budget cuts, a lot of that was justified in terms of federalism—a desire to return authority to the State and

local governments as well as services, but to let the local areas choose what services they care to provide.

We also think, in this administration, some work in deregulation is akin to federalism, and that our promotion of block grants as a policy, principally in departments other than the Department of the Interior, certainly speaks to the issue of federalism. The continued sharing of receipts from Federal lands, as we do through the Bureau of Land Management program, contributes to federalism. We believe the decentralization of the Federal Government, as we desire to do in this administration, is certainly a form of New Federalism and a desire on the part of this administration to move Government closer to the people.

Lastly, we support the $45 million budget request for PILT simply because we think it is a necessary, albeit modest, contribution to an idea to assist some communities that are impacted by Federal open space.

Mr. Chairman, that summarizes my brief comments. Again, I request the statement be placed in the record. My colleagues and I will attempt to answer any questions you have.

Senator DURENBERGER. Thank you. The full statement will be made part of the record. We appreciate the three of you being here this morning.

Let me begin by exploring the proposed changes contained in S. 1282 and see what they reveal about the administration's thinking on the New Federalism.

Is the change in the offset determination for section 4 programs a reflection of a basic philosophy that says there are too many existing "Federal-local" linkages, and that this New Federalism progressively cuts those and replaces them with "Federal-State" linkages?

Mr. CARRUTHERS. I don't think that is the justification of that proposal at all, Mr. Chairman. The justification simply is we are devoted to States' rights. We think the State has jurisdiction over those funds and that the States, working with the local areas, can accommodate local need far better than the Federal Government can.

Senator DURENBERGER. Is there any evidence of that? Just take the West to which you referred. Is there any good, hard evidence of that out there right now?

Mr. CARRUTHERS. Mr. Chairman, I can't give you hard evidence. But I did have an opportunity to speak to a delegation from the National Association of Counties recently. The gentleman from Wyoming testified that relationship was very solid in his State and that the State has accommodated the distribution of funds appropriately, that they have received funds for Federal impact work. I don't have statistics to support that, however.

Senator DURENBERGER. That is probably true in Wyoming. We have a similar situation with regard to their severance tax in which the counties are in there approximately 5½ percent. It seems to me, in looking it over, Wyoming is unique in that regard. The answer I hear to the question is simply that you have confidence in not only maintaining but strengthening the PILT payments to the State. You don't see any need to start building in local pass-through mechanisms?

Mr. CARRUTHERS. Clearly, we think that is a responsibility of association of States and counties as they relate to one another. We would be less than candid if we didn't admit part of it is an administrative problem in the Department of the Interior. It is very difficult for the Department of the Interior to define what is a local government. It is additionally difficult for us to obtain the records to assure that distribution is appropriate, given all the States who are recipients have different forms of government. They view government differently. Part of it is an administrative problem we have which we haven't been able to resolve. We think giving the States the right to resolve and perceive government as they want is the most appropriate way for us to go at this time.

Senator DURENBERGER. Isn't it a fact that one of the justifications of the 1976 Act, and one of the justifications for the PILT payments in general, is that Federal open space lands produce little revenue for the States, in a general sense?

Mr. CARRUTHERS. I think that is part of it, Mr. Chairman. I think also we recognize that the counties and cities that are associated with these public lands oftentimes provide services. We view, in part as minimum insurance premium, that some of the services which are needed to use those public lands are actually provided by the local area. So, a good share of our justification is with that in mind. If you have extensive energy development or another development in a downtown area belongs to the Federal Government, the increase in economic activity and the expansion of the tax base normally takes care of that. We want to assure other counties who are providing similar services, albeit not to the degree energy development impact would apply, that those counties are receiving something as a financial incentive to continue the services.

Senator DURENBERGER. Let me first deal with the first half of the rationale. That is recognizing, at least in some areas, that the lack of available taxable property makes it difficult to provide public services or to finance public services. That leads me to think that the ultimate PILT program would be for the Federal Government to remove obstacles, wherever possible, to the State's maximizing revenues from the use and development of public lands. This brings us to the Department's current effort—which I applaud—to exchange State lands for Federal lands, where it is possible, in order to give the State some kind of revenue-generating property. That comes in a variety of forms. We have the old one section set aside for schools—that old law—and a variety of other ways by which we have dotted our maps with measles across this country. Could any one or all of you put this land exchange policy in the context that we are just now discussing—in terms of giving the States some revenue-raising capacity? Is it, in effect, a part of, or do you see it in the same context as you would the PILT program of cash payment?

Mr. CARRUTHERS. Let me speak to it, then I think Bob would want to add something.

It speaks basically to the concept of federalism again. It is a matter of control and management of properties. The way the lands are distributed now, including in your home State—Director Burford is working on a resolution to the distribution of lands—neither the Federal nor the State government can manage for any kind of revenue. As a consequence, we support activities, such as

those underway in Utah and in Minnesota, to try and either exchange, block up or otherwise disperse some Federal lands which would make it possible for the local, as well as the Federal Government to achieve greater benefits. So it is a management federalism concept.

Bob, you might want to add something.

Mr. BURFORD. Well, as you say, those lands given to the States' school sections varied anywhere from one section in some States to as high as four sections per township in Utah, New Mexico and some of the other States, and—to a much greater extent—in the act passed last year as far as Alaska is concerned. This does amount to a dispersed land pattern. The Department is attempting to address these "measles," as you very aptly put it, in a lot of States.

I just recently started the drafting of an MOU in Minnesota so blocking up can occur there, and so a lot of the communities in the State will have processed to them, through the Recreation and Public Purposes Act, the lands which they have identified that they can use under the terms of that act. Hopefully, a good portion of this land in Minnesota will eventually be returned to private ownership. After the State makes its selection, the counties and municipalities can make their selections. What is left should be sold to the public because it is obvious that the Bureau of Land Management cannot properly manage in that State. We are trying to address those land patterns throughout other States, where we have a larger presence, in order to block our lands so we don't impose our management on State management. Hopefully, the State and the Federal Government will benefit by that blocking effort.

Mr. CARRUTHERS. Mr. Chairman, if I might add one other concept which might lend to this argument. As you are well aware, Secretary Watt asked early in his administration that all State and local governments identify parcels of Federal land which will be contributory to their public purposes. We have some 600,000 or 700,000 acres of land under consideration now as a result of that request. This again I think contributes to the equity questions, particularly in areas where we have Federal lands completely surrounding towns. This is an opportunity for them to at least acquire land for schools, parks and other purposes.

Senator DURENBERGER. The point I am getting at is the criteria which is being used to make these judgments. From what I hear, the criteria is how do we maximize the management of the real estate. You have one acre that is Federal, the next acre is State, the next acre is local and the next acre is owned by a private forester. They are all doing about one-fourth or less of the job of managing that property which they could do if one manager, in effect, owned all four tracts. Is that the basic criteria which is behind the whole land management exchange program?

Mr. BURFORD. The general, basic idea behind it is to improve the management of the resource. If the public interest is served, we look at it. In many States we cannot provide surface management where we have very small acreages. The land and public would be better served if the management was turned over to the State, the local community, or another Federal presence which maintains larger acreages within that State. The Federal Land Policy and Management Act of 1976 offers various means of dispos-

al. If it appears to the Secretary that the land itself can be better used and the public interest—not only of the Nation but of the local community—is better served by that exchange, that exchange should be made.

Mr. CARRUTHERS. I think the economics also has to be considered. Management is one thing, but access affects economic use. Neither the State of Minnesota nor the State of Utah can make available their own land because they are in small parcels. Once blocked or exchanged, the economic benefits to the Federal sector are better. They can dispose of the land as they choose, or lease them for development. Right now they are precluded because of the distribution and access problems. Although we look to management, because we view holding Federal resources well into the future, they also look to the economics, as we do, for increased opportunities to utilize lands.

Senator DURENBERGER. The basic driving force behind the decisionmaking is the same as that behind the notion of payments in lieu of taxes—that is, driving the management process and the revenue-maximizing capacity of the land down as close to private ownership as possible. It starts with a system of Federal land ownership. The theory of the exchange is to drive that relationship down to State and/or local or private ownership in order to maximize the return, both for the economy and to our society. The return can be indirect in the form of either leases, sales, public resources or taxes on privately owned resources. That is the current driving force behind the land exchange policy, is it not?

Mr. CARRUTHERS. When I say management, it is a little broader than just economics. There is management for a host of reasons. There can be management for recreational purposes, for wilderness purposes, or environmental concerns in the same light. Management is a concept and maximizing dollar benefits is only one aspect. It is oftentimes easier for us to manage a wild and scenic river if we can make a land exchange. There is the land. It is not all dollar benefits. I think it would be untrue to tie it all to maximizing dollar benefits.

Senator DURENBERGER. I was only taking one part. I understand that part. Clearly, we have a responsibility to provide the recreational services and the preservation of certain species. However, I am only speaking to the force which is driving the process of maximizing the recreational or economic opportunities. Do I understand you to say that force is driving the process down as close to local government and private enterprise as in effect is possible?

Mr. CARRUTHERS. I guess I am not making the clearest connection between our interest in management, and being efficient managers of the public resources and the private sector as perhaps you are. Certainly, in this administration we depend on the private sector and adhere to those principles rather closely. But in the public land management, the contribution to the private sector on most of our public lands, other than the usual leasing activities, is not that significant. We will be asking some of the private users of public lands to contribute a more significant amount to the management aspects. For example, Director Burford might wish to speak to some concept regarding private investment in public lands as a means of enhancing management. Those kinds of things, yes;

but, we don't foresee any great opportunities to enhance the private management of public lands.

Mr. BURFORD. That is correct. But the one overriding thing that the Department must keep in mind is that the Federal Land Policy and Management Act starts out with the idea that public lands shall be retained in public ownership. That is probably the one overriding mandate that that act does put out. It then goes on to say under certain circumstances where it is determined that the best interests of the general public is served by a land exchange or sale, those sales and exchanges shall take place.

In the particular instance of Minnesota and some of the States east of the Mississippi, the land use plan in Minnesota has shown that the public interest actually would be served by transferring those lands either to the jurisdiction of another Federal agency or trading them with the State, allowing as many of them as possible to go into community ownership for recreation and public purposes. Although that act is restrictive and will not allow the transfer of minerals or purchasable timber to those agencies, wildlife habitats and such purposes can be served by those transfers. In the Minnesota area that is a land use plan decision because it has been determined as the best use of that land.

In some of the Western States, land exchanges are taking place. The main emphasis is to increase economic manageability of land through the exchange process, provided that those lands are exchanged in equal value exchanges and the Federal Government gets equal value for lands it exchanges with the State. This allows the State to block up lands. I guess Utah is generally used because Governor Matheson has been one of the leading proponents of this and is really pushing it forward.

Senator DURENBERGER. Let me ask—if it is appropriate—if the three of you could talk a little bit about how we lease Federal lands for exploitation, in the good sense, not in the sense that some people use that word. I am under the impression that it would be possible for the Federal Government to take considerably more in royalties than it presently does. Given the current royalty arrangements we have with the States, an increase in Federal royalties would mean more royalties to the States. Is this a possibility, or is this under consideration as a possibility, to do some of the kinds of things that PILT now is asked to do?

Mr. BURFORD. We continually check and try to arrive at the best thing to do. The goals in mind are maximization of return to the Treasury, which—as you know—also maximizes the return to the States and enhances the availability of those lands and promotes development. There is a fine line which one has to tread. You encourage explorations especially in unexplored areas and, at the same time, try to maximize the return to the Treasury. The debate goes on in the Department all the time as to whether or not we should go to some of the sliding scale royalties—some of which are very difficult to administer—and whether or not some of those sliding scales, or increased royalties, actually maximize the recovery. It is a matter of trying to balance income, exploration and recovery.

Senator DURENBERGER. Let me stop you at that point. What authority does the Secretary of the Interior now have which allows

him to go to some more flexible arrangement and, in effect, let the marketplace through the bidding process reflect on which side of this thin line we ought to be standing?

Mr. CARRUTHERS. I just want to make a couple comments in that regard, Mr. Chairman. One, most of that is established by law. The royalty rates which we are permitted to charge for the various resources are established in law. I wouldn't be optimistic about looking at those as additional revenues. If you did you would discover that some resource royalty rates are too high and consequently we don't see exploration and development. In underground coal mining, there is pressure to negotiate downward due to the economics in the industry. The provision to do so is established by law. The only opportunity we have to really change the amount of revenue is in the bidding process where bonuses are bid for the opportunity to extract the resource. You will see, if you look at our records in BLM, the trend has been up significantly in bids for some resources, particularly coal resources and oil and gas leasing on the Outer Continental Shelf and onshore. The market is reflected in the bonus bid, but the big money is in capturing the royalty once the development occurs.

Senator DURENBERGER. Is there current authority for the Interior Department to do what the State of Alaska is doing—that is, tying its royalties to a percentage of the profits?

Mr. CARRUTHERS. Yes, in the Outer Continental Shelf we are experimenting with different systems, including bidding the profit sharing and fixed profit sharing. We have several experiments underway on the OCS. We have until December to complete the experimentation process. Then we will go through an analysis of what happens when we use this system under various circumstances on the Outer Continental Shelf. That is the only study to look at an array of options of which I am aware. That was pretty much dictated by the courts and Congress.

Senator DURENBERGER. What has been dictated?

Mr. CARRUTHERS. That we study these.

Mr. BURFORD. It is in the OCS Land Act Amendments which requires that we experiment with some different bidding systems and see what the results are.

Senator DURENBERGER. So Congress has given you the authority to experiment?

Mr. BURFORD. On OCS lands.

Senator DURENBERGER. Only on OCS?

Mr. BURFORD. Not only the authority, but the mandate.

Senator DURENBERGER. By December 1?

Mr. CARRUTHERS. We will complete the experimentation by the end of the year. The analysis, I can't tell you.

Mr. BURFORD. It is mandated that we study so many different systems.

Senator DURENBERGER. Are you close enough to—I don't want to ask your conclusion—but are you close enough in what you have been doing with OCS lands to make a judgment about whether or not you ought to have some opportuity to do the same thing onshore?

Mr. CARRUTHERS. I don't think our analysis has progressed to the point where we can determine a difference between the traditional

way of doing this and some of the concepts which were supposed to lead to small business bidding to increase revenues to the Government. That analysis is planned but it hasn't been completed.

I think we can infer to onshore situations from that analysis. Certainly, because we know what the objectives of experimenting with the various bidding systems were, and it should be inferred directly to onshore as well.

Senator DURENBERGER. In the last few years have you noticed the degree to which the States have moved one way or another off that so-called thin line—Montana with a 30-percent severance tax and Wyoming with a combination State and local severance tax of 17.5 percent? You know the list as well as I do. Clearly, the States have made the judgments which you say you are not prepared to make on behalf of the Federal Government. I am curious to know if that experience of watching State severance taxes is leading me to the wrong conclusions about the economics. Is it your feeling, or the feeling of the Department of the Interior, that letting the whole business of the severance taxes go the way it has, is a legitimate way to, in effect, offset the kind of State and local problems which we talk about when we talk about PILT? Would it not be better to consider some more Federal control over the economics, the benefits of which are always shared with the States on an equivalent basis?

Mr. CARRUTHERS. We would be hardpressed to agree to any additional Federal control in this situation. We think that severance taxes are a province of the States. They must be mindful when they impose severance taxes. They should be ever mindful that they are impacting the economy of that industry. And I think a close investigation of severance taxes over a long period of time will indicate that some industries have had to migrate to other spots as a result of the imposition of severe severance taxes. I am familiar with the great debate in New Mexico over the uranium industry and the threats of the industry to leave and migrate to some other place where they would have opportunities at a lower rate. That is a choice the State has to make. If they do careful calculations, they can run long at the marginal unit and feel obligated to stay and produce. Still, that is a State responsibility and something the Federal Government should not dabble in.

Senator DURENBERGER. The Federal Government should not dabble in either the economic return or the impact on the industry of a State imposing a tax on Federal coal on Federal land, or Federal oil on Federal land? That is none of our business?

Mr. CARRUTHERS. Mr. Chairman, all we offer in the Department of the Interior is an opportunity. That opportunity must bring a certain price or we don't release that opportunity. We represent 230 million stockholders in this agency. Until we determine that a fair market value has been received for the resource we don't release it. If the severance tax is so great in a State that people cannot bid on an opportunity to give us a fair market return, the opportunity does not exist.

I guess I am a little perplexed as to how we would change our operation based on what we perceive to be a fair market response to severance taxes from States. I certainly cannot personally, and I am not going to tell you as Department of the Interior policy. Per-

sonally, as an economist, I suggest that to do so we would complicate our lives considerably, as a Federal Government, if we moved in the direction of somehow controlling severance taxes.

Senator DURENBERGER. I don't want to spend a lot of time on this issue. We came here to talk about the perceived needs of State and local governments to be compensated, in some way, for either lost revenues or the burden of services rendered in areas which the Federal Government owns an awful lot of open space. I have merely suggested that the land exchange program, in part, addresses that issue appropriately, and that the realization of a joint return on the sale of minerals and forest products presents another opportunity for us to advance the cause of the State and local government.

On the severance tax issue, I hear you say, in effect, that it is none of our business to make those kinds of judgments. The royalty vehicle is not as appropriate as the severance tax vehicle. We should leave it, in effect, to the States' judgments about these kinds of issues.

I am not disagreeing with you because I am not that much of an expert on your business. That is why you are here testifying at this hearing. My objective is to find out how we can overcome the problems which State and local governments have in those areas where the Federal Government has an enormous presence. I want to know what you are thinking about in terms of alternatives to the present system.

Mr. BURFORD. Senator, I think one thing we should do is separate the severance tax itself from royalty payments because the severance tax is exactly that, a severance tax. It is imposed on minerals, coal or oil, whether it comes from Federal land or private land or State land. It makes no difference.

In the determination of royalties per se, our main goal is to be sure that the entire public of the United States receives fair value for the extraction of that mineral. Severance taxes are imposed by the States as a sovereign body on anything that they prescribe as coming out of the ground, whether it comes off Federal lands or private lands. In fact, I think the State that probably collects more severance tax than any other would be Louisiana. The Federal presence, as far as minerals in Louisiana is concerned, is very small. We have a certain amount there, but not nearly as much as we have in the Western States.

The PILT program, on the other hand, is designed and so constructed as to help those States, and more particularly, hopefully, the counties in which perhaps there are no mineral royalties accruing. We have many of them in some of the Western States. They have vast open spaces which at various times of the year are highly populated, for example by hunters. A sudden snowstorm comes up and the county is hit with a large burden in taking care of those people.

We recognize that mineral royalties do return to the States, but only to those States which are blessed with great mineral wealth, such as New Mexico, Wyoming, Colorado and Utah. We have some other States that don't collect nearly as much in mineral wealth. It is an attempt to take care of particularly those localities where the

Federal presence does not contribute anything to the economy, but does require some expenditures on the county's part.

Mr. CARRUTHERS. Mr. Chairman, if I might add, I don't want to leave you with the wrong impression. We very much are interested in increased revenues for all our stockholders, including State and local governments. As you know, through many of our revenue sources, we share 50 percent with the State and 50 percent goes to some kind of Federal activity. We would dearly love for those revenues to go up as market conditions reflect they should, and they are doing that. We are not attempting to hold down revenues in any fashion. We encourage good, hard economics.

Senator DURENBERGER. That is why I raised the issue. If for no other reason I want to make sure if you haven't thought onshore while you are thinking off-shore, that you do it.

I want to correct an impression that will be left by both of you in the record. That is, something like only half of the royalties stay in the States. Again, I hate to argue with experts. We have had hearings on this subject all year long. Just dealing with the rest of the country and not with the Alaska situation, Federal policy now leaves, in effect, 90 percent of those royalties in the State. Fifty percent outright is the State's share of the royalty. Eighty percent of the Federal balance stays in the States under several Federal policies dealing with mine land reclamation and a whole variety of other things. So, we aren't getting much out of the current royalties.

I am not necessarily arguing that we should maximize our share. I am just saying when anybody comes in here and says certain States have real problems, when they have 30 percent and 17.5 percent severance taxes and are in effect raising $1½ billion a year, and we are leaving behind 90 percent of our royalty on our Federal lands, I have to ask what the problem is in some of these States that we are trying to cure with the PILT process.

I am not trying to start an argument with you. I am trying to have you look at the whole issue of PILT in the larger context of land exchange as we have discussed—and also in the context of the royalty, the severance tax, and so forth. We have a variety of public policies and a variety of tools available to do the things we would all like to see done—maximize the return on the resource and lower the cost of delivering public services. We should not look at it just in terms of the PILT program because all of these things relate one to the other.

Mr. CARRUTHERS. That is perplexing to us, Mr. Chairman, particularly when you see statistics that somewhere here reflect that 42 counties get 88 percent of the revenues, or that is from where they are generated. Something of that nature tells you that there is a distribution problem perhaps.

We still maintain that the PILT program is our only opportunity to assure that those other counties, which are not recipients, at least have something to operate with in the provision of these rather fundamental, basic services.

Mr. BURFORD. The 50-percent return to the States may be a little bit fuzzy, because the other 40 percent goes to the Bureau of Reclamation and 10 percent to the Treasury. The OSM fund, if I remember correctly, is a separate tax per ton of coal mined, which goes

into the Office of Surface Mining for reclamation of new developments. A certain amount of it also goes into a fund to reclaim old mines for which no one can be found for the damage that was done. So, while it is true that the U.S. Treasury gets only 10 percent of the royalties, even in the lower 48, that 40 percent does go into the reclamation fund. Fifty percent, which was changed about 5 years ago from 37.5 percent, does go back to the State of origin. Sometimes those counties with great Federal presence of open space do not benefit because energy is generally concentrated. We do have counties that do need some assistance in this program.

Senator DURENBERGER. Thank you. We are going to get to some of those counties now. Thank you very much for your testimony.

Mr. BURFORD. Thank you, sir.

[The prepared statement of Mr. Carruthers follows:]

STATEMENT OF GARREY E. CARRUTHERS, ASSISTANT SECRETARY--LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, ON PAYMENTS IN LIEU OF TAXES, NOVEMBER 4, 1981.

Mr. Chairman, I am pleased to appear today to discuss payments in lieu of taxes. I will first explain the rationale for the payments in lieu of taxes program administered by the Department of the Interior with respect to open-space Federal property (PILT), then discuss the relationship of PILT to the Administration's philosophy of federalism, and conclude by addressing the Administration's position on the establishment of a payments in lieu of taxes program for Federal property not covered by the Payments in Lieu of Taxes Act of 1976.

The Federal Government owns approximately 740 million acres of land. Of this total, the Department of the Interior manages 516 million acres. All of this land is exempt from taxation by State and local governments. However, along with other uses of public lands, mining occurs on them, timber is cut on them, and people camp and hunt on them. Many of the economic uses of the public lands are generally indistinguishable from what occurs on private lands. Federal ownership of these lands precludes the State and local governments from collecting property taxes on them, but does not prevent these governments from imposing severance taxes, taxing production facilities, imposing user fees, or collecting license fees for fish and wildlife utilization. However, some Federal open-space property produces no revenues or economic activity, though it may attract people for whom the local communities must provide services.

In order to mitigate the effects of tax exempt open-space property on the economies of these governments, Congress has passed laws under which the Federal Government shares the receipts from the use of these lands with State and local governments, to be used to provide services such as roads, schools, and police protection. The agencies also make available appropriated moneys for cooperative law enforcement arrangements. There is, however, a problem with an approach limited to receipt sharing. The compensation that the State or local governments receive depends upon the revenues generated and this varies substantially from State to State and by county within States. Some States receive substantial amounts of revenue far in excess of any demonstrated need for property tax equivalency. If the Federal lands in a particular locality produce no revenue, that locality receives no compensation regardless of how the lands are being used or developed. Counties that include large areas of national parks, wildlife refuges, or wilderness areas must still provide for public services, even though they may receive little Federal compensation for the land. The enactment of PILT in 1976 was an attempt to address this problem by providing a minimum payment to counties containing certain types of Federal lands designated as "entitlement lands." This Administration wants to continue that policy.

The Administration's goal under the new federalism is to shift responsibility and authority back to State and local governments, so that the problems faced by those governments can be solved by the officials who are most knowledgeable about, and most accountable to, their particular constituencies. We believe that the concepts underlying the PILT program and the proposal to amend the program that we submitted to the Congress earlier this year are consistent with this

philosophy. For example, States now have the primary responsibility for determining how receipt-sharing funds will be allocated among the localities within their jurisdictions. Our proposed amendment to section 4 of PILT does not, as it has been suggested, assume that States will return all section 4 funds to the localities. Instead, by requiring that all receipt-sharing funds paid to a State be deducted from PILT payments made with respect to localities in that State, the proposal recognizes the authority, and the responsibility, of the States to allocate those funds in the manner State government determines to be most appropriate to the needs of its citizens.

At the same time, with the limited exception in the law that payments of less than $100 shall not be made, all local governments with PILT entitlement lands are assured of at least a minimum payment of 10 cents per acre. This minimum guarantees some continuity in the level of PILT payments from year to year, which otherwise could vary widely because of fluctuations in shared receipts.

PILT fits into the framework of the new federalism in another way as well. PILT funds are not earmarked for specific services such as roads or schools. Thus, the localities receiving the funds have the flexibility to allocate them so as to address the problems they identify as the most pressing for their community.

It has been asked whether PILT continues to be necessary in light of the substantial increases in the amounts realized by State and local governments under the receipt-sharing programs, particularly under the mineral leasing programs. In 1981, mineral leasing receipts collected on Federal lands were nearly

three times those collected in 1975. This figure is misleading, however, because the increase affects only a few of the localities receiving PILT payments. Of the receipts collected in 1981, for example, 70% were generated in only two States--New Mexico and Wyoming. PILT is not a mechanism to transfer wealth from one State to another. However, the deduction of all receipt-sharing funds from PILT payments, along with the minimum and maximum payment limits contained in PILT, helps to equalize the level of PILT payments between those States and localities that have substantial receipt-sharing revenues and those that do not.

A question also arises as to the relationship that exists between PILT and State severance taxes. These taxes apply to production of mineral resources, and are imposed without regard to the private or public nature of the land-owner involved. In fact, several States that contain little or no public land impose such taxes. Given that the taxes are not related either to the presence of Federal land in a State or to the revenues received from mineral leasing activities on Federal lands, we do not believe that this is an issue that can appropriately be addressed in the context of the PILT program.

While the Administration does, as I have stated, continue to support the concept of the PILT program, a distinction can be drawn between the application of the concept to open-space lands and its application to developed Federal property, such as office buildings and certain military installations. Open-space lands in some States are so extensive as to exempt almost all of what would otherwise be the revenue base of the locality. In other cases, the lands contain resources the States cannot develop for productive use. The situation is quite different with

developed Federal property, which provides both direct and indirect benefits to the communities in which it is located, including the expansion of employment and the general level of economic activity. This type of Federal presence also adds substantially to the tax base of the community in terms of income tax, sales tax, and other taxes. The desirability of this Federal ownership is evidenced by the usually intense opposition when a facility is to be withdrawn.

The Administration opposes the establishment of a payments in lieu of taxes program for non-open-space Federal property, because that issue cannot be separated from the more general questions of Federal tax and fiscal policy and the impact of the Administration's economic program, regulatory reform, and budgetary policy on State and local communities. The assumption underlying the proposal to establish such a program appears to be that all State and local governments having Federal real property within their boundaries are adversely affected by the presence of such property. This is not the case. A new program would also impose excessive administrative and regulatory burdens on both the Federal Government and State and local governments, which would have to establish a framework for determining property values and resolving the disputes that would naturally arise. This is simply not the time to initiate such a program. The substantial increases in payments to States or localities that would result from such a program, plus significant annual operating costs, are in conflict with the fiscal goals that must be pursued in order to restore the economic health of our nation.

Mr. Chairman, this concludes my prepared remarks. I would be happy to respond to any questions you may have.

Senator DURENBERGER. Next we have a panel: Conrad Joyner, county supervisor of Pima County, Ariz., representing the National Association of Counties; Michael Stephen, the executive director of the Montana Association of Counties; Warren Youngdahl, chairman of the Arrowhead Regional Commission; Carl Miller, commissioner of Lake County, Colo.; and James Evans, executive director of Colorado Counties, Inc.

Gentlemen, we have two of our four panelists here plus Jim Evans, who is with Mr. Miller. The order will be that which I read. We will start with Warren Youngdahl. I say that because I don't want anybody to think I am favoring people from Minnesota.

Go ahead, Warren.

TESTIMONY OF WARREN YOUNGDAHL, CHAIRMAN, ARROWHEAD REGIONAL COMMISSION, DULUTH, MINN.; CARL MILLER, COMMISSIONER, LAKE COUNTY, COLO.; JAMES EVANS, EXECUTIVE DIRECTOR, COLORADO COUNTIES, INC., AND CONRAD JOYNER, COUNTY SUPERVISOR, PIMA COUNTY, ARIZ.

Mr. YOUNGDAHL. Thank you, Mr. Chairman.

First of all, I would like to tell you and make a public announcement that Indian summer has come to the North Woods. I left Minnesota in 65 degree weather.

Senator DURENBERGER. You better get back today.

Mr. YOUNGDHAL. The deer hunters are not going to be happy about that.

Background. I am Warren Youngdahl, chairman of the Arrowhead Regional Development Commission, or better known as ARDC, headquartered in Duluth, Minn. ARDC is a multipurpose planning and development organization created under the Minnesota Regional Development Act of 1969. Its jurisdiction encompasses the seven counties of Aitkin, Carlton, Cook, Itasca, Koochiching, Lake, and St. Louis in northeastern Minnesota. ARDC represents over 300 local units of government in the seven-county area, and is responsible for technical planning, research and studies, and regional policy development for the area.

I am a local elected official from Marcell Township of Itasca County, and I live within the boundaries of the Chippewa National Forest. I am here today to testify on behalf of ARDC with regard to a bill, S. 1282, which proposes to amend Public Law 94-565, Payments in Lieu of Taxes Act, to change the method by which payments are determined for Federal payments in lieu of taxes. Mr. Chairman, the Arrowhead Regional Development Commission is opposed to the enactment of this draft bill on the grounds that it will reduce overall in-lieu tax payments to the counties in northeastern Minnesota and does not provide an equitable taxing alternative to the existing payment formula under Public Law 94-565.

To show the impact on Arrowhead Region Counties, in 1980, Arrowhead Region Counties received payments in lieu of taxes totaling $1,597,433. We are anticipating 1981 payments of approximately $1.8 billion. S. 1282 would revise the PILT formula, resulting in a direct loss of $1,326,000, or 73 percent, based on projected in-lieu payments for 1981. We recognize that the previous administration proposed no program funding for fiscal year 1982 and that

the present administration has requested fiscal year 1982 funding at a level of $45 million with the amendments as proposed in S. 1282. Both of these requests are unacceptable and will not provide an equitable in-lieu of tax return for Federal lands in our counties.

Let me clarify the landownership situation facing northeastern Minnesota counties. The region as a whole contains 2,976,720 acres, or 23.45 percent, in federally owned lands. Major Federal landholders include the Superior National Forest, Chippewa National Forest, Boundary Waters Canoe Area and the Voyageurs National Park. Carrying this description to the county level, Itasca County has 346,680 acres, or 18.25 percent, of its land area in Federal ownership; Lake County contains 55.13 percent Federal; and Cook County is subject to having 744,400 acres, or 71.08 percent, of its land under Federal control. These lands are largely forested and used for timber harvesting and recreation. Because of extensive Federal ownership, a 70-percent loss in payments to our counties in fiscal year 1982 would be devastating. On an average, our counties are currently receiving about 40 cents per acre. If there are to be changes in the act, the act should not lessen the compensation to local units of government but should increase compensation to these governments. The Federal Government should be a responsible taxpayer like any other property owner at the local level. Other taxpayers are currently facing fiscal cutbacks, and these cuts are affecting local units of government very directly. Local governments are being forced to increase local property taxes and reduce some services. A cutback in Federal payments in lieu of taxes will only serve to increase the local burden. S. 1282 is not an equitable alternative to the existing law.

Let's take a closer look at the provisions of the proposed bill. S. 1282 would create two major changes. First, it would reduce overall compensation to local units of government by 60 percent because of the proposed cutback in program funding to $45 million in fiscal year 1982. Second, the additional programs to be included under section 4, and the revised formula and payment provisions, will mean that counties will lose PILT funds as an offset against payments that we do not now receive. For all practical purposes, most counties, particularly in the western States, will only receive the minimal 10 cents per acre. Mr. Chairman, this does not represent an equitable tax return to the counties in Minnesota or other parts of the country. We estimate that under the new formula Minnesota counties would receive $474,000, a loss over 1981 funding of 73 percent.

In 1976, the Payments in Lieu of Taxes Act was enacted to compensate a local government for the burden of tax exempt Federal lands within its jurisdiction. The Arrowhead Regional Development Commission and its individual counties have worked long and hard for many years to take steps to overcome the taxation inequity. From our perspective, the 1976 act is a step toward narrowing this gap. The Federal Government must continue to recognize that it is a landowner holding lands in trust for the benefit of all. When these lands are placed in trust for everyone's benefit, it should not be the sole responsibility of the individual living in the local jurisdiction to absorb all the costs to support the maintenance of local services and other costs directly impacted by Federal lands and

their use in an area. In Minnesota, the State recognizes these inequities and provides payments in lieu of taxes for State lands for this same basic reason. To reduce funding and amend the payment formula to further decrease potential in lieu of local revenues would be a step backward in meeting a Federal obligation as a landlord.

Mr. Chairman, the Arrowhead Regional Development Commission supports the Senate-passed appropriation of $105 million for fiscal year 1982; opposes S. 1282; and encourages Congress to consider the longer range estimates made by the Bureau of Land Management, which administers this program. BLM estimated that for fiscal year 1983 it would need $117 million to fully fund the program. To decrease the funding to $45 million in fiscal year 1982 would be another step toward longer range tax inequities to be faced by our local units of government.

Thank you, Mr. Chairman.

Senator DURENBERGER. Thank you very much, Mr. Youngdahl.

We will go to Carl Miller next.

Mr. MILLER. Thank you, Mr. Chairman.

I am chairman of the Lake County Board of Commissioners. I certainly appreciate having the opportunity to appear this morning and explain the impact on some counties of the Federal Government owning a majority of the land within the county. In Lake County, the Federal Government owns 74 percent of the land. We dearly depend on the PILT funding. PILT funding for Lake County does not compensate the county for the services we happen to provide in that small community. We are blessed with spectacular beauty in Lake County and with large reservoirs which were constructed by acts of Congress. Due to those recreation projects, we have a lot of people coming to the mountains.

All of the roads leading to and from these large Federal recreation areas are county roads. Therefore, Lake County is responsible for maintaining these county roads and is also liable for the county roads. The roads are in a deplorable condition.

We receive $136,000 from PILT. With the present formula, if it is kept to 10 cents an acre, we would lose approximately 86 percent of our current funding. This would bring us down to about $19,000. As I stated, the $136,000 is not enough for Lake County to provide the services which are required by the Federal Government.

We do have a written statement that we would like to enter into the permanent record. My colleague, Jim Evans, has some remarks to make on behalf of the whole State association.

Senator DURENBERGER. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

As Commissioner Miller indicated, we would like our full statement entered into the record. In addition, we have an analysis of S. 1282 which our association opposes. We would like to show that that proposal would reduce the payments by 80 to 90 percent in many of the counties. That is why we are opposed.

Senator DURENBERGER. Your statement and the analysis will be made part of the record.

Mr. EVANS. Thank you, Mr. Chairman.

If it is acceptable, we would like to respond to several points brought out earlier in the Department of the Interior testimony.

There was a point made that 42 counties generate 82 percent of the revenues. I hope the subcommittee recognizes that the counties are frustrated and that out of the generation of these funds, the counties receive very little. I am sure that Rio Blanco County, Colo., is one of those 42 counties. Approximately $24 million a year in mineral royalties is generated in that county. The 50 percent which would be returned to the State is about $12 million. That is a considerable amount of money. However, I would like to point out that Rio Blanco County actually receives $200,000. Less than one-tenth of 1 percent of the funds generated in that county is actually received by the county. Yet, it is the county, not the State, which has a tax immunity burden for property taxes. That is traditionally, as you know, a county or local government's source of funds.

This is an extreme example of the frustrations that county governments feel regarding this mineral leasing distribution point. States have traditionally utilized those funds in the West for their public school funds. Yet the counties have the property tax immunity burden.

The proposal, which we have submitted for the record, would provide for utilizing mineral leasing royalties in an entitlement or trust fund basis to make the payments in lieu of tax proposals. Legislation is being drafted in the House of Representatives to be submitted, we hope, soon. It would provide a viable alternative to the Secretary of the Interior's proposal for county governments.

In Colorado, we have calculated that, if these lands were privately owned which are entitlements under the payments-in-lieu formula, approximately $90 million in property tax revenues would be generated. The recently completed ACIR study estimates $74 million in Colorado would be generated. Both of these figures are considerably higher than the $7.2 million that Colorado counties receive under payments in lieu of taxes. From a county point of view, these are partially compensated for by the tax immunity of the lands. Yet, the services are not minimal, in our opinion, for law enforcement, road maintenance, and other services which Commissioner Miller has pointed out.

We strongly oppose the specific legislation and have recommended an alternative type of legislation.

Thank you, Mr. Chairman.

Senator DURENBERGER. Thank you very much, Mr. Evans.

Conrad Joyner is now with us. First, welcome. Please proceed with your statement.

Mr. JOYNER. Thank you, Senator. You have my statement and I am not going to try to read all of it because I realize that some of it is going to be duplicating what you have already heard.

I come from a State which is really hit hard by the provisions of the legislation under consideration. As you know, I am representing the National Association of Counties, and I am a supervisor from Pima County, Ariz. We receive, in Pima County, almost the maximum amount under payments in lieu of taxes. That is, we receive about $970,000.

As I think has just been pointed out, vast holdings of Federal lands, particularly in the West, have long deprived counties of a tax base. For example, Gila County, Ariz., is 97 percent federally owned. Kane County, Utah, contains 92 percent Federal lands. We

could go on at great length about these western lands, but there are other lands, of course, Federal lands, in other States. I am told in your own State of Minnesota, Cook County, contains 66 percent Federal open space lands and Lake County has 55 percent.

Senator DURENBERGER. All the rest is owned by the State?

Mr. JOYNER. And all the rest is owned by the State.

There is a real problem in our county. For example, I had our assessor do some calculations. When we took the State military bases and the Federal land, we found that just under 14 percent of the lands in Pima County, Ariz., are in private hands. That is a very serious problem.

We have, of course, budgeted for and placed PILT payments in our general funds. Other counties do this, too. In some States like New Mexico, PILT payments compose over 50 percent of the general operating funds. In Utah, in five counties, 50 percent of the operating funds come from PILT payments. Thus, if there are any reductions in the program, counties will be hardpressed to find alternate sources of funding.

I think, Senator, you are aware of the fact that many States, including Arizona, have adopted both spending and levy limits. In many instances, in the case of Arizona, for example, the Federal payments are exempt from those. So we would have absolutely no way that I am aware of, in Pima County or in any county in Arizona, to make up the Federal dollars. We are in a big budget crunch. The State has a 7-percent limit on personal income. I am told that they are going to hit that limit this year. So we are talking about a real problem.

I think also that you have got to realize—and I don't know whether this has been mentioned before—that 26 percent of the countyowned sources come from the property tax. So we are talking about, so far as counties are concerned, a considerable source of revenues. The remaining comes, in our case at least and in many other counties, from State-shared funds like the sales tax or what have you. Now again when we contemplate the fact that the State-shared funds are themselves limited as a result of propositions like 13 in California, there is no place to get that money.

And, of course, as you know, S. 1282 dramatically reduces payment to counties with large public landholdings. Again, I would point out that Minnesota's payments will go from $1.4 million to $400,000. It will reduce most western and many eastern counties to receiving the minimum 10 cents per acre payment. Currently, the revenues each county receives from other Federal receipt-sharing programs are deducted from its PILT payment. Rather than actual receipts, the legislation would now subtract from a county's PILT payment a percentage of the total receipts the State received from Federal revenue sharing programs, whether or not the county actually received any of those revenues. The formula operates under the incorrect assumption that all of these funds go directly to the counties. For example, only five States reported they distributed payments to counties under the Mineral Leasing Act. Out of the total payments made under that act, only 2 percent went to local governments. Since State governments, again I emphasize, are facing big budget deficits, it is completely unrealistic to expect that they will pass any more mineral royalties back to the counties.

While these funds may indirectly benefit counties and help ease fiscal disparities the way Federal programs do, they do not replace the property taxes foregone that form the basis of the county's general fund. And I think this is important to emphasize here. PILT was designed specifically for that purpose. It should also be remembered that Federal receipts bear little relation to the burdens Federal lands place on local governments.

I won't go into that except to give an illustration in our county. We have a road that goes to a very favorite resort called Mount Lemmon. It is in a national forest. Every year we spend well in excess of $100,000 to maintain that road. Now that is a real expenditure. We have to spend that money. We don't have an option because the people who live in and around Tucson use that road.

I think that we are going to see an absolute reduction in our ability to provide services to the people in our county, and I am sure in other counties, too. I think another thing that is a real problem is this fact that property taxes on all privately held land, regardless of use, is based upon both the land and improvements. I have sat on a local property tax appeals board, and believe me, I understand that. A private property owner cannot separate out taxes from his land and the timber stand or producing mine thereon and deduct one from the other. Yet, when the property owner is the Government, obviously a different standard applies and the property owner can do just that. While PILT counties accept this arrangement, S. 1282 would separate the value of the land within a county from the value of improvements throughout the State, a perversion, in my judgment, and I think of most people who understand property taxes, of all property tax principles.

Public lands counties are rural and tend to be poor. I think this is a point that needs to be emphasized, too. The Federal lands within their borders are often their only economic resource and may often be nonrenewable. This is no different than the county whose economic life is dominated by manufacturing, such as a steel mill or automobile factory. But because the Federal Government is exempt from paying local taxes and the private manufacturer is not, a basic equity principle of public finance is violated—that taxpayers in similar situations should be treated similarly. No county would let the private manufacturer off the hook because he also pays State and Federal taxes.

I am going to omit the rest of the statement. I want to make a point on some aspects of real property and PILT.

I know that the subcommittee is also examining the fiscal disparities caused by the presence of Federal real property. Counties with Federal real property suffer from the same disparities as counties with public lands. The time has come, in my judgment, for the Federal Government to assume the same responsibility to pay its taxes with respect to its real property. The same conclusion was reached by the Advisory Commission on Intergovernmental Relations in its report on payments in lieu of taxes on Federal real property, released earlier this month. The ACIR concluded that, in general, existing Federal programs are not designed to compensate subnational governments for revenue losses which result from Federal Government tax immunity. We, the National Association of

Counties, endorse a system of payments for real property in our national platform. We have made that position very clear.

Senator, I would like to conclude with a statement of principle. That is, I believe—as a local elected official for 13 years, both at the city and county level—in the devolutionary principle. I think it is essential to return responsibility to both the State and local government. When I had an opportunity to testify before you the last time, we were talking about block grants. You did not take all of our advice. I was trying to make the same point at that time. I think the National Association of Counties has been trying to make the point that we believe in devolution. If we accept that principle, then we have to have the wherewithal to do the jobs which we are being asked to do.

So there is a double point here, it seems to me. Not only are we being deprived of a tax base in counties like Pima, but if S. 1282 is passed we are being deprived of the opportunity to see if the devolutionary process will work. In other words, it seems to me that S. 1282 operates in direct contradiction to the principle of devolution. And I, therefore, on behalf of the National Association of Counties, hope that the moneys are not reduced, that they are restored so we can be about the business of assuming our appropriate responsibilities.

Senator DURENBERGER. Thank you all for your statements.

Let me just start out by asking a general question which takes off where Commissioner Joyner stopped.

Earlier, when the people from Interior were testifying, I asked a question about PILT in a federalism context. I asked, "Isn't it true that you are changing a traditional federalism which has strong Federal-local links to a federalism which now has stronger Federal-State links?" The answer I got admitted the fact that "Yes, we do favor a stronger reliance on State governments."

Mr. Youngdahl knows that in my State we have lived through the traditional battle between the metropolitan areas and the rural areas—the outside areas, whatever they are called. These are political battles for control of the State's resources.

I am just curious to know whether or not this battle—which is going on right now in the distribution of PILT funds, severance taxes, and so forth—isn't just sort of a Western version of this same old kind of battle. What is the nature of the access of the counties, the cities, and particularly the rural areas in the Western States to political control over State government? Is it possible for us to rely on the Western States to adequately compensate local governments for the delivery of services?

Mr. JOYNER. I have some very strong feelings about that, Senator.

Mr. EVANS. Yes, Mr. Chairman. I believe that the case Mr. Carruthers mentioned earlier regarding a meeting with county officials—that States could distribute or deal with these impacts—involves this intergovernmental question.

There are two issues that I believe respond to this. One, as long as the Federal Government mandates programs, we believe that the Federal Government also has the responsibility to provide the resources. The level of Government which mandates the program

should provide for the resources. That is one principle that, I think, reflects on this.

The other is the question of the land itself which is tax immune. It is owned by the Federal Government. It is the Federal Government that creates the tax immunity. Therefore, we believe, on a direct linkage basis, the Federal Government has a responsibility to address that issue.

If, on the other hand, the Federal Government would transfer those lands to the States—as has been introduced in several bills in Congress—the situation then might be changed. We would then address the State directly for this tax immunity burden and the whole "sagebrush rebellion" concept as part of that approach.

The State of Colorado, for example, on some of its lands does provide that the county can assess the land. The county can submit a cost estimate of its assessment and then apply its tax rate. It is also considered an in-lieu payment. They are not paying a tax bill. The computation of the State in-lieu payment is based on the principle of assessment and the market value of the State lands. We believe if the States were to receive the lands, at least in Colorado, the mechanism is already there to deal with the impacts.

Mr. JOYNER. Senator, obviously every State differs. Arizona differs markedly and dramatically from Colorado. As a matter of fact, all State lands are so-called school trust funds in Arizona. The State land commissioner, the attorney general, and the governor comprise a board which is responsible for leasing and/or selling these lands. An urban lands bill was just passed in our State legislature which mandates the highest possible return on these lands. In fact, the State land commissioner has repeated this on a number of occasions.

If what has been talked about were to occur—that is, the reversion of certain lands to the State—I cannot visualize the State of Arizona doing anything but treating those as trust lands—that is, the public lands as trust lands—to be used to offset, in this instance, the schools and would take up a portion of their present payments to the school districts. So that in this sense then counties and cities would not benefit at all, other than, I suppose, in a very indirect way. You could say that there would be additional moneys available as a result of the reversion of lands to the State.

I think, though, a point that I have made on a number of occasions—I made it when I testified over in the House before Congressman Fountain's committee—is that there is an assumption made by people who have not served at the local level, Senator. That is, that somehow the States are benign partners with us, that they are cooperative partners with us. Many times what happens is that they mandate programs, just as the Federal Government does, and then they don't provide the wherewithal for us to fund them. So to make the assumption that somehow these benign good States are going to treat their local entities in an equitable fashion and somehow transmit that money or moneys to them, at least in the case of Arizona—and as I talk with my other commissioners and supervisors from throughout the country—I don't think you can make that assumption. I think it is a very, very erroneous assumption and one which does not recognize the true character of the Federal partnership.

The Federal partnership is a tripartite partnership. Any concept of federalism which does not take into account the important link of local governments, in my judgment, is a faulty notion of federalism.

Senator DURENBERGER. The problem for us, who have to make Federal policy, is the same problem that everybody has. That is, who do you trust to get the job done best. You can point to Colorado and say, "Well, it is OK to do some of this devolution here because we have a political premise on which we can rely." I would say the same thing about the State of Minnesota.

When Jim McClure put in S. 1282, he cited some figures about royalty turned back to local governments. Wyoming received about $115 million from Federal royalties and returned only $700,000 to the counties. Knowing what Wyoming does with regard to its royalty shares and the share a county gets, I can understand why a county of Wyoming would complain about the policy. And looking at it as a Senator sitting in Washington, it looks like Wyoming is not doing a good job by its counties.

Colorado received $16 million and returned $2.4 million. Utah received $9.6 million and returned $1.2 million. New Mexico was $53 million. Montana, $7.1 million. Nevada, $9.1 million. The last three States don't return a thing. Yet, we are asked to structure a resource sharing or resource turnback policy that is supposed to take into cognizance the local government's role in delivering on Federal mandates for equal access to public services. It becomes very, very difficult for us to do that.

I went into the issue of land exchanges with previous witnesses. I went into the issue of more realistic royalties and the sharing of those royalties with State governments. I did not see much concern on the part of the Department of the Interior for the problems of local government as they went about the business, as I described it, of forcing responsibility down as close to the local level as possible. I really didn't see much cognizance on their part for the problems we are discussing now of the State and local relationship.

I am wondering if those of you, who are familiar with the Mineral Leasing Act, have any thoughts on how we might put some teeth into the royalty section of the Mineral Leasing Act which might help counties where public lands are located?

Mr. EVANS. The Mineral Leasing Act, as you know, has a clause in it which was amended in 1976. It says there shall be a priority for expenditure of the funds for local communities and governments impacted by Federal energy and mineral activity.

In the five States you quoted, obviously there are zero dollars being passed through to address this issue. I think we in Colorado—for whom I speak—would, for sure, join you if, out of your hearings, you could ask the Department of the Interior which administers this program why it isn't addressing this congressional priority which was enacted into the law. We are frustrated by that at the local level. We appreciate your addressing that issue.

Senator DURENBERGER. Mr. Youngdahl, I am going to ask you a couple of questions about Minnesota because, for some reason or other, we always get picked on. I pick on Montana, Wyoming, or somebody like that. But, they are always picking on Minnesota.

I know what Montana counties get. Mike Stephen isn't here to talk to us about that. I know what they get, or don't get, by way of shared revenues. Do you have some notion, since you represent the part of the State which has all of our minerals, about how we share mineral royalties and so forth in Minnesota? Do you have some idea of the proportion of royalties that goes back to local governments in Minnesota?

Mr. YOUNGDAHL. Mr. Chairman, as far as the mineral royalties, I am not as familiar with what happens in the mineral royalties as I am with the turnback of those dollars which are collected in Minnesota from timber harvesting. There is a good turnback on the timber harvesting dollars back to the State and also to the local units of government. I can't state exactly what the mineral condition is at this point.

Senator DURENBERGER. Is it not a fact that, in a general sense, the State of Minnesota has been quite diligent in returning a variety of resources generated from public lands back to local governments? The bulk of the iron ore tax stays on the range and goes into the school districts and into the Iron Range Resources and Rehabilitation Board (IRRRB), which is a redevelopment fund devoted strictly to the iron ore ranges in general.

When you look at what Minnesota has done for local governments by returning the proceeds, wouldn't you say Minnesota has done a pretty good job?

Mr. YOUNGDAHL. Mr. Chairman, addressing it from that point of view, and the dollars generated from the taconite production tax, I think Minnesota has done an extremely good job in that particular area. A tremendous amount of dollars is sent back, as you indicated, to local units of government—both in direct tax reductions and also in special block grant situations—that take care of all types of needs in northern Minnesota, addressing social needs as well as local government needs.

A tremendous number of our IRRRB dollars go out in creating recreation areas, assisting in building new public buildings and new libraries and all the rest of it. So there is a good record there.

Also, as far as the Department of Natural Resources in Minnesota is concerned, they have recognized the problem. We struggled many years to get that before the State legislature. They recognized their commitment to reimbursing local units of government with a similar in-lieu-of tax to local units from State-owned lands.

While I have the chance, I would like to also make a point concerning the percentage for the different counties which I addressed on page two of my prepared statement. If we took into consideration the county lands that are held, especially in several counties, for forest management purposes and also the State lands which are managed within the counties, it would increase these percentages from 10 to 20 percent. In other words, as you indicated, Cook County perhaps has almost a 90-percent public ownership situation, in combination with county, State, and Federal ownership. Lake County is somewhere around 50-some percent. Itasca would be increased to pretty close to 35 percent if you included the Memorial Forests in that total. Then of course you have the other situation of private industry, such as Blanden Paper Co., Boise-Cascade, who have timberlands and are in a special tax-credit basis in

that situation. It encourages them in the development of forest lands. That again creates additional limitations in the amount of dollars that can be collected by the local government.

We are recognizing the problem of the 8-percent limitation that is placed on our levies, and so if this reduction should take place, it would be, as I indicated, very drastic.

Senator DURENBERGER. Thank you all very much for your time. Your full statements will be made part of the record.

Mr. Evans?

Mr. EVANS. Mr. Chairman, I appreciate the opportunity. We would like to have in the record also that there was some reference made to the payments in lieu of taxes having administrative problems. We want to go on record saying we think the Bureau of Land Management has done an excellent job of administering this program. I believe there is only one full-time employee in a $105-million program with less than one-half of one percent overhead. That might be a model rather than something to be criticized. We understand their position as having to come before you to ask for a reduction in a program which we believe is being administered in an excellent manner.

Senator DURENBERGER. Good. Thank you all very much for coming.

[The prepared statements of Messrs. Miller, Evans, and Joyner follow:]

Statement on Payments-In-Lieu of Taxes
by Commissioner Carl Miller, Lake County, Colorado
and Legislative Representative Jim Evans, Colorado Counties, Inc.
before the Senate SubCommittee
on Intergovernmental Relations
Washington, D.C., November 4, 1981

Mr. Chairman:

As representative of Colorado Counties, Inc., the association representing all counties in Colorado, we appreciate the opportunity to testify before your SubCommittee hearings. We believe the Payments-In-Lieu of Taxes program is one of the most important elements enacted by Congress to provide responsible intergovernmental relations between the federal government and local governments. We are greatly concerned with current attempts to eliminate or reduce payments under this program.

Public land counties in Colorado receive $7.5 million per year as their annual entitlement under this program. These payments partially recognize the tax immunity of federal lands in Colorado. As in-lieu of taxes payments this is not a categorical grant program. There is less than 1% federal overhead for the administration. We believe the federal government should not be able to reduce its "in-lieu" tax commitment in order to balance its own budget. No other taxpayer would be able to do this without a lien placed upon their property.

Currently the U.S. Senate is considering full funding of $105 million for FY 1982 PILT payments. However, the House has voted against any funding of the program and a conference committee will be necessary to decide the final funding level.

This leaves Colorado counties with a legal budget deadline of November 15 in a quandry on the amount of funds to budget for 1982. One Colorado county, Chaffee County, is facing a 65% tax rate increase or budget cuts as a result.

CCI supports federal entitlement legislation in order to avoid future appropriation problems for this important program. It is the counties who must provide the local law enforcement, health, welfare, road maintenance, and other programs impacted by federal public land activities. Federal energy development is just one example of this impact. Counties need an assured level of PILT funding if they are to continue the local support needed for the multiple-use administration of our public lands.

The proposed entitlement legislation has been endorsed by the National Association of Counties. Congressional sponsorship is now being sought.

The proposed legislation would provide an annual transfer of federal mineral leasing funds in order to make full PILT payments. These funds would come entirely from the federal share of mineral leasing royalties derived from the federal lands. This would be an equitable way for the federal government to deal with the tax immunity issue. The state share of mineral leasing royalties would not be affected.

We would appreciate your committee's support and assistance toward the enactment of PILT entitlement legislation.

Who subsidizes who?
During the funding issue for Payments-In-Lieu of Taxes, questions were raised concerning the degree the federal government "subsidizes" local governments through the PILT program, the federal Mineral Leasing Act program, and U.S. Forest reserve payments. Critics of PILT argue that these are "duplicative" payments.

This is not true as far as counties are concerned. The PILT formula calls for any mineral, forest or other public land payments to be deducted from PILT payments, except for those counties at their population limits who receive a minimum payment of 10¢ per acre. In Lake County, for example, the entire $6,374 forest reserve payment is deducted. Lake County receives no mineral leasing funds.

This mineral leasing distribution issue is perhaps the most frustrating intergovernmental financing problem now facing public land counties. Counties view it somewhat akin to the carnival "shell" game. Federal critics of PILT and the House of Representatives seem to be saying "counties don't need PILT because western states are receiving mineral leasing funds". When we turn to the states they say "you don't need mineral leasing funds because you are receiving PILT". Whichever "shell" we turn over, there is no money.

Actually, in Colorado, counties receive approximately 5.5% of the mineral leasing funds. These funds have traditionally gone to the statewide Public School fund. This is also the case in other western states. In most western states counties receive no mineral leasing funds.

The basic formula change proposed by Secretary of Interior James Watt is to deduct all mineral leasing funds received by a state from all county PILT payments. We believe this would be grossly unfair, especially when there is no federal effort to enforce the congressional priority for mineral leasing funds to be used for local governments impacted by federal mineral and energy developments.

According to a CCI analysis in 1980 of potential county property tax revenue if federal lands in Colorado were not tax exempt, they would produce a potential $90.8 million per year. The Advisory Council on Intergovernmental Relations (ACIR), in their 1981 report on PILT, estimates that tax exempt federal land in Colorado would produce a potential property tax liability of $74.8 million. Using either figure it is clear that the $7.5 million in PILT payments fall far short of the county taxes foregone, or county "subsidy" of the federal government.

Even adding the total annual mineral leasing payments ($2.4 million) received by counties in Colorado and the annual forest reserve payments ($1.9 million), the public land counties come out with a deficit compared to property taxes foregone.

Despite this deficit counties must still provide the general government services provided for all property owners within the county. The specific Lake County example for road maintenance attached to this statement is a good example.

Again, we encourage your support for the funding and enactment of entitlement legislation for the Payments-In-Lieu of Taxes program.

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Commissioners
William J. Gregory, Chairman
Carl E. Miller
Kenneth W. Chlouber

Attorney
John W. Dunn

BOARD OF COUNTY COMMISSIONERS

LAKE COUNTY LEADVILLE, COLORADO 80461

August 17, 1981

Mr. Jim Evans
Public Lands, Energy &
Natural Resources Analyst
Colorado Counties, Inc.
1500 Grant Street
Denver, Colorado 80203

Dear Jim:

In our recent telephone conversation we discussed the impact counties will suffer if the Payment-In-Lieu of Taxes funds are curtailed. Lake County will most certainly be placed in a financially disasterous position. Under the current PILT entitlement we are struggling to provide the services required. I've enclosed a packet containing correspondence detailing our efforts to obtain additional Federal funds to improve county roads used primarily by out of county and out of state visitors.

Lake County is surrounded by mountains towering above 14,000 feet. We're blessed with an abundance of mountain lakes, streams, fish and wild life. The United States Federal Government is aware of this spectacular beauty, and, as owner of 74% of the land in Lake County, they have chosen by Congressional Act to design, construct and operate huge recreational areas in Lake County. The Turquoise Lake campgrounds are filled to capacity on a daily basis. That amounts to 700 visitors per day. The United States Forest Service is presently constructing additional campsites at Twin Lakes. The Twin Lakes campsites will be the largest in the district. Although the Twin Lakes campgrounds will not be in operation until next year, we have already received requests from the Forest Service to purchase and install guard railing along the county road that provides access to and from the campgrounds. Three county roads provide exclusive access to and from the Turquoise Lakes campgrounds. The Twin Lakes campsites can only be reached by county road. The United States Forest Service installed a counter on County Road No. 4, leading to the Turquoise Lakes campsites and recorded 86,390 vehicles from June 1, 1980 to Labor Day. That is an extremely high volume of traffic on a small county road for a period of less than 100 days. Lake County also maintains the 14 miles of paved county road that circles Turquoise Lake and the Federal campgrounds.

Another problem that is becoming of increasing concern is the fact that the Forest Service disposes of all the trash collected from the campsites at the Lake County Solid Waste site. This amounted to 60 yards per week during the summer of 1981. I'm sure when the additional campsites are in operation, in the Spring of 1982, the trash deposits will double or triple. We're also impacted by increased law enforcement costs due to deputies patrolling the campsites. Our major concern however, is the hazardous and deteriorated condition of the county roads that provide the only access to and from the Federal campsites. These roads are designated county roads, and therefore, the county must assume responsibility and any potential liability. This seems to be an unfair burden for a small county to bear in behalf of the Federal Government. In fact, it seems that Lake County is subsidizing the Federal Government.

Our local District Forest Ranger, as well as the Forest Service Supervisory office in Pueblo, are sympathetic to our problem. They agree that resurfacing these county roads is beyond the financial capability of Lake County and the burden should be shared by the Federal Government. However, they can offer no financial aid in the foreseeable future due to drastic cuts in their proposed budgets. In the PILT debate on July 21st, Rep. Joseph McDade was quoted as stating, "That the budgets of the Forest Service and National Park Service contained more than enough appropriations to make sure that those publicly owned properties are cared for". That statement is simply unfounded and not truewith regard to Lake County.

In closing, I wish to make note of the fact that Lake County supplements their Road and Bridge budget with the funds received from PILT. If the funds are curtailed it will become financially impossible to maintain these roads. As I noted at the beginning of this letter, and in past correspondence with Rep. Ray Kogovsek and other members of the Colorado Congressional Delegation, Lake County is seeking additional funds due to the burden imposed on us by the Federal Government.

Jim, if more information is needed or we can assist Colorado Counties Inc. in any way please call.

Sincerely,

Carl Miller

Carl Miller
Lake County Commissioner

Encl.
CM:ap

SUMMARY--COLORADO COUNTIES, INC. ANALYSIS
OF POTENTIAL COUNTY PROPERTY TAX REVENUE
IF FEDERAL LANDS IN COLORADO WERE NOT TAX EXEMPT

A. Comparison of Assessed Value - Federal Land vs. Comparable Private Land

Type-Private Land	# of Acres	Comparable Private Land	Average Assessed Value Per Acre
BLM Grazing Land	7,369,116	Grazing/Dry Farm	$ 4.46 (a)
BLM Oil, Coal and Mineral Leases	627,247	Oil/Coal Leases	733.01 (b)
Wildlife Refuges	52,292	Natural Resource	47.28 (c)
National Forests	14,386,671	Natural Resource	47.28
Bur. of Reclamation	316,565	Natural Resource	47.28
National Parks	537,352	Natural Resource	47.28
Corps of Engineers	38,249	Natural Resource	47.28
TOTAL, Colorado	23,327,492		$ 49.50

FOONOTES:

(a) Since not all BLM land has a primary use of grazing, CCI used the 1979 statewide average for comparable private grazing and dry farm lands, reported in the 1979 Annual Report of the Colorado Division of Property Taxation (CDPT).

(b) For the acreage of BLM "producing" lands, CCI used 1980 oil and gas leasing data supplied by USGS, Utah Office; for geothermal, coal and mineral leases CCI used 1977 Public Land Statistics published by BLM; for comparable private land values, CCI used 1979 data reported in the 1979 Annual Report, CDPT.

(c) For Wildlife refuges, forests, parks, and water projects CCI used 1977 acreage data published by BLM; to estimate the potential assessed value, CCI used comparable private Natural Resource lands, as reported for 1978 in the 1979 Annual Report, CDPT (corrected 1979 information was not available).

B. Computation of Potential Property Tax Revenue - Federal Lands.

August, 1979 Countywide Mill Rate	Potential Avg. Assessed Value Per Acre	Potential Avg. Tax Revenue Per Acre	Total Federal Acres	Total Potential Revenue
78.44¢	$49.50	$3.88	23,327,492	$90.8 million

CCI 7/21/80

Colorado Counties, Inc.
1500 Grant Street • Suite 301
Denver, Colorado 80203
Phone 303 861-4076

. .rectors

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EXECUTIVE
DIRECTOR
Harry P. Bowes

July 7, 1981

The Honorable James Watt
Secretary of Interior
U.S. Department of Interior
Washington, D.C. 20240

RE: Payments-In-Lieu of Taxes

Dear Secretary Watt:

This letter is to express the opposition of Colorado Counties, Inc. to the U.S. Department of Interior proposal that would revise the formula for the Payments-In-Lieu of Taxes (PILT) program. The proposal would drastically cut PILT payments to public land counties in Colorado and other western states that now bear the burden of the tax immunity of federal lands.

CCI earlier forwarded its alternative proposal for entitlement legislation for consideration by you and Congress. This alternative proposal would continue the current payment formula by utilizing a portion of the federal mineral royalties now derived from these tax exempt lands. We were heartened by your positive response of May 18, 1981 to this option and look forward to further discussion.

The PILT program is an extremely important program in Colorado where 36% of our land is federally owned. The principal sponsor of the program was former Colorado Congressman Frank Evans. The program is based on the recommendations of the Public Land Law Review Commission which was chaired by former Colorado Congressman Wayne Aspinall. Yet, here in Colorado the counties will be among the hardest hit by the proposal from the Department of the Interior.

Under the Department of the Interior's proposal payments to counties in Colorado will be reduced from approximately $7.6 million annually to less than $2.3 million. This would be a 70% cut. Yet a CCI analysis has demonstrated that if these lands were taxed as though privately owned they would produce up to $90 million in local revenues annually.

Reneging on the PILT commitment would be particularly critical and unfair to 21 counties identified on the attached list who would be cut by 80-90% each. For example, Mesa County would be cut from $813,000 to $152,000; Larimer County from $551,000 to $78,000; and Montrose County from $533,000 to $98,000. These cuts would come at a time when increased federal lands activities are requiring more local law enforcement, road maintenance, health and hospital services, and other local government services demanded by the users of federal lands.

The Department of Interior proposal would deduct from PILT payments all mineral and timber revenues derived by state governments despite the clear recognition by Congress that only those funds actually received should be deducted. Very few states pass mineral royalties through to county governments. In Colorado only 11% of these funds are passed through. It is ironic that the Department of Interior proposed these deductions since it is the U.S. Department of Interior who has failed to recognize or assist with the Congressional priority for these mineral royalties to be utilized for assistance to local governments impacted by federal energy and mineral activities. The Department of Interior has also failed to implement the mineral royalty loan program also authorized by Congress for this purpose.

On the other hand, the CCI proposal, which has been endorsed by the Western Interstate Region of the National Association of Counties, would utilize these very same mineral royalties on an annual entitlement basis and would help alleviate these impacts. Counties would not be faced with the uncertainties of the annual federal appropriation and rescission process. The local budget process would be stabilized for these public land counties. Utilizing moneys derived from the federal lands would be an equitable method for the federal government to meet its in-lieu-of taxes obligation.

We do appreciate your budget cutting restraints and the fact that you have not proposed the entire elimination of the PILT program. However, we do not believe it is fair for one level of government to attempt to balance its own budget by in effect not paying its property taxes. No other landowner would be able to attempt this without a lien placed upon his property.

The Payment-In-Lieu of taxes program is an excellent program that has been well administered by the Bureau of Land Management. The program operates with less than a 1% overhead rate. It should be considered a model program for other federal agencies. We hope it will not be ruined with the proposed changes and cuts. We would rather work with you together to provide an entitlement program with an equitable payment formula and secure funding source.

Sincerely,

Keith Edwards
CCI President

Harold Schutz
President-Elect,
Western Interstate
Region

Harry P. Bowes
Executive Director

attachment

PAYMENTS-IN-LIEU OF TAXES

County	Proposed 1982 payment	1981 full PILT entitlement	County	Proposed 1982 payment	1981 full PILT entitlement
Adams	$0	$0	La Plata	$42,253	$259,167
Alamosa	8,521	54,954	Lake	18,890	136,247
Arapahoe	417	910	Larimer	78,886	551,010
Archuleta	43,881	116,713	Las Animas	9,179	9,179
Baca	20,501	127,515	Lincoln	212	212
Bent	2,057	2,057	Logan	112	112
Boulder	16,525	115,562	Mesa	152,616	813,937
Chaffee	50,861	363,707	Mineral	42,000	42,000
Cheyenne	30	30	Moffat	162,284	167,459
Clear Creek	18,775	116,689	Montezuma	47,403	190,997
Conejos	48,354	299,739	Montrose	98,234	533,204
Costilla	0	0	Morgan	518	518
Crowley	515	515	Otero	16,378	90,723
Custer	18,423	62,699	Ouray	16,749	90,067
Delta	39,864	57,251	Park	71,780	198,135
Denver	0	0	Phillips	0	0
Dolores	40,758	40,758	Pitkin	51,386	288,429
Douglas	14,693	104,206	Prowers	75	75
Eagle	83,981	307,275	Pueblo	6,736	32,118
El Paso	10,535	74,128	Rio Blanco	152,910	152,910
Elbert	0	0	Rio Grande	33,095	226,739
Fremont	45,128	333,671	Routt	66,147	91,529
Garfield	122,700	224,161	Saguache	132,006	139,933
Gilpin	4,534	30,371	San Juan	21,724	26,528
Grand	80,486	190,367	San Miguel	47,376	47,376
Gunnison	166,641	209,430	Sedgwick	27	27
Hinsdale	28,200	28,200	Summit	31,605	188,453
Huerfano	20,987	130,655	Teller	16,479	118,281
Jackson	52,089	52,089	Washington	88	88
Jefferson	10,386	73,415	Weld	19,855	90,643
Kiowa	820	820	Yuma	767	767
Kit Carson	0	0			
			Total	2,288,432	7,604,750

PUBLIC LANDS RESOLUTION NO. 2

SUPPORT FOR PAYMENTS-IN-LIEU OF TAXES ENTITLEMENT LEGISLATION

WHEREAS, a payments-in-lieu of taxes program, to recognize the tax immunity of federal lands, has been recommended by the Public Land Law Review Commission, the Advisory Commission on Intergovernmental Relations and the National Association of Counties; and

WHEREAS, the Congress has stated its intention to make payments-in-lieu of taxes as a policy in the Federal Land Planning and Management Act of 1976; and

WHEREAS, the Congress enacted PL 94-565 to provide a fair and equitable formula for payments-in-lieu of taxes after thorough study and hearings; and

WHEREAS, rescissions and appropriation cuts that have been proposed or enacted virtually every year have jeopardized the effectiveness of this important program, with the effect that the federal government is not fully honoring its property tax commitment as other landowners must; and

WHEREAS, sufficient funds are available from royalties and revenues derived from the tax exempt public lands to provide secure funding for the payments-in-lieu of taxes program;

NOW, THEREFORE, BE IT RESOLVED by Colorado Counties, Inc. that it support legislation to provide payments-in-lieu of taxes funding as an entitlement program utilizing mineral leasing royalties and revenues derived from the public lands; and

BE IT FURTHER RESOLVED that Colorado Counties, Inc. oppose any proposals, including any Department of Interior proposal, that would reduce or eliminate payments-in-lieu of taxes funding.

WS/SLV
6/19/81

AN ACT FOR THE DISTRIBUTION
OF MINERAL LEASING MONIES

(1) Section 35 of the Act of February 25, 1920 (30 U.S.C.S. 191), as amended, is further amended to read as follows:

"All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970 (30 USCS 1001 et seq.), notwithstanding the provisions of section 20 thereof (30 USCS 1019), shall be paid into the Treasury of the United States;

50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, FROM THE BALANCE OF THESE MONEYS, THE SECRETARY OF THE TREASURY SHALL, COMMENCING THE YEAR ENDING SEPTEMBER 30, 1982, TRANSFER TO THE SECRETARY OF THE INTERIOR SUFFICIENT FUNDS FOR PAYMENTS TO LOCAL GOVERNMENTS FOR ENTITLEMENT LANDS UNDER PROVISIONS OF THE ACT COMMONLY REFERRED TO AS THE PAYMENTS-IN-LIEU OF TAXES ACT (31 U.S.C.S. 1601); THE BALANCE thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska as soon as practicable after March 31 and September 30 of each year, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: PROVIDED, That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 (30 USCS 1001 et seq.) from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 (30 USCS 1001 et seq.) not otherwise disposed of by this section shall be credited to miscellaneous receipts.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 18 1981

Mr. Harry P. Bowes
Executive Director
Colorado Counties, Inc.
1500 Grant Street, Suite 301
Denver, Colorado 80203

Dear Mr. Bowes:

We appreciate the support expressed in your March 3, 1981, letter for our efforts to restore funding for the Payments in Lieu of Taxes (PILT) program. Your letter also contains an interesting proposal to change the Mineral Leasing Act of 1920 as well as several other statutes concerned with shared revenues and the formula contained in the Payments in Lieu of Taxes Act.

Your proposal reflects an approach we had not previously considered, and we believe it merits further study. The proposal would use revenues produced from Federal lands to fund the PILT program, which seems equitable. However, we would have to consider the fact that much of the land on which PILT payments are made does not produce revenues. We would also have to consider the effect reduced Mineral Leasing Act payments would have on State programs.

As you know, we are currently developing a proposal to revise the existing law to simplify procedures by which calculations are made under PILT, to eliminate the need to rely on State reports for basic information, and to provide for a more equitable system for making payments to units of local government.

We recognize the importance of PILT legislation to local governments and will make every effort to arrive at an equitable balance between the need for reduced Federal spending and the fiscal requirements of local governments.

Sincerely,

SECRETARY

TESTIMONY OF CONRAD JOYNER ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES ON THE PAYMENTS-IN-LIEU-OF-TAXES PROGRAM BEFORE THE SUBCOMMITTEE ON INTER-GOVERNMENTAL RELATIONS OF THE SENATE COMMITTEE ON GOVERNMETNAL AFFAIRS, NOVEMBER 4, 1981.

Mr. Chairman and Members of the Subcommittee:

My name is Conrad Joyner. I serve as a Supervisor for Pima County, Arizona. I also serve on the Intergovernmental Affairs Steering Committee of the National Asscoiation of Counties.* Since Pima County contains over 1.6 million acres of federal land, I greatly appreciate the opportunity to present our views on how counties suffer from fiscal disparities because of the presence of public lands, and how the Payments-in-Lieu-of-Taxes (PILT) program helps to alleviate the situation. I will also discuss S. 1282, the Administration's proposal to change the PILT program.

The Payments-in-Lieu-of-Taxes Program (PILT) is critical to the budgets of public lands counties. Enacted in 1976, the program provides minimum payments to local governments to partially compensate them for the tax immunity of federal

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* The National Association of Counties is the only national organization representing county government in the United States. Through its membership urban, suburban and rural counties join together to build effective, responsive county government. The goals of the organizaiton are to:

- improve county governments;
- serve as the national spokesman for county government;
- act as a liaison between the nation's counties and other levels of government;
- achieve public understanding of the role of counties in the federal system.

natural resource lands. These lands are: national forests and grasslands, national parks, wilderness areas, fish and wildlife refuges, Bureau of Land Management (BLM) lands, Corps of Engineers and Bureau of Reclamation lands, and inactive army reserve lands. PILT payments go to over 1500 counties nationwide.

Vast holdings of tax exempt federal lands, particularly in the west, have long deprived counties of a viable tax base, For example, Gila County, Arizona, is 97 percent federally owned. Kane County, Utah, contains 92 percent federal lands. The list of western counties in this situation is lengthy. Federal land ownership also substantially impacts non-western counties. For example, Forest County, Pennsylvania, is almost 50 percent federal lands; Rabun County, Georgia, is about 62 percent federally owned. And in your own state, Minnesota, Cook County contains 66 percent federal open space lands and Lake County has 55 percent.

Counties budget for and place PILT payments in their general funds. In New Mexico, PILT payments comprise over 50 percent of the general fund operating expenditures of six counties, and over 40 percent in another five counties. PILT comprises 77 percent alone of general fund operating expenditures in Otero County in that State. In Utah, PILT monies make up over 50 percent of the general fund operating expenditures for at least five counties. In Nevada, PILT payments provide between 13 and 23 percent of these operating expenditures for at least five counties.

Thus, if there are any reductions in the program, counties will be hard pressed to find alternative sources of funding. Yet the Administration, in S. 1282, is proposing to permanently cut the program by over 60 percent. This proposal comes at a time when increased federal lands activities are requiring more local law enforcement, road maintenance, health and hospital services, and other local government services demanded by the users of federal land. For example, last year there were 300 million national park visits, an all time

high. The strain that such an influx of people puts on limited county resources is considerable.

Both Congress and the Ford Administration recognized the obvious fiscal disparities caused counties by the presence of federal lands, and, respectively, enacted and signed the PILT program into law to help alleviate those disparities. It was also a recognition on their part that the federal government indeed had the obligation to pay its property taxes. The reliance by counties upon the property tax underscores how essential PILT is.

Nationally, the property tax accounts for 26 percent of county own-source revenues. However, counties cannot necessarily raise property taxes on their private lands to compensate for the tax-exempt presence of federal land. Twenty-six states have some form of Proposition 13 in effect.

The primary source of county revenue is state shared revenues. However, in this present economic climate counties cannot turn to the states to make up for their revenue shortfalls. The National Governors Association has estimated that states will lose between $8 and $12 billion this year because of federal budget cuts and tax code changes. Thus, whatever small surplus there might be in state operating budgets could be totally wiped out by the end of fiscal 1982. So, counties must look elsewhere.

By most state laws counties must balance their budgets. A local governmetn cannot have a deficit or go bankrupt. The states have to step into the breach, but in light of projected deficits states will be hard pressed to bail out counties who cannot raise adequate revenues because so much of their land is tax exempt.

While necessary, PILT payments do not provide a true tax equivalency. Nationwide, counties only average about 15 cents an acre for the 700 million acres under the program. For example, in Colorado, grazing lands -- the least valuable category of lands -- are assessed at $1.80 to $44.64 an acre. Counties

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nationwide actually receive $79.8 million less than they would have if the lands were privately held.

S. 1282 dramatically reduces PILT payments to counties with large public land holdings. For example, Minnesota's payments will go from $1.4 million to $400,000. It will reduce most western, and many eastern, counties to receiving the minimum ten cents per acre payment. Currently the revenues each county receives from other federal receipt sharing programs are deducted from its PILT payment. Rather than actual receipts, the legislation would now subtract from a county's PILT payment a percentage of the total receipts the state received from federal revenue sharing programs, whether or not the county actually received any of those revenues. The formula operates under the incorrect assumption that all of these funds go directly to the counties. For example, only five states reported that they distributed payments to counties under the Mineral Leasing Act. Out of the total payments made under that Act, only two percent went to local governments. Since state governments are facing big budget deficits, it is completely unrealistic to expect that they will pass any more mineral royalties back to the counties.

While these funds may indirectly benefit counties and help ease fiscal disparities the way federal programs do, they do not replace the property taxes foregone that form the basis of a county's general fund. PILT was designed specifically for that purpose. It should also be remembered that federal receipts bear little relation to the burdens federal lands place on local governments.

Since S. 1282 subtracts the proportionate amount of revenues each county would receive, the bill assumes that all federal lands generate equal revenues. This is a blatant inequity. Some lands generate timber receipts, some mineral royalties, some grazing fees, each in different and varying amounts, and some

generate no revenues at all. Yet counties that produce little or no revenues will still be penalized as if they received them.

Out of 831 counties in eleven western states, we have identified at least 28 counties that receive no revenues but PILT, and 22 counties that receive less than $500 in other revenues. Yet they will all be severely penalized under S. 1282.

As I stated, under the present PILT formula, federal receipts are deducted from a county's PILT payments only if the county actually receives them.

Counties and states each have the right to share in the revenues produced from within their borders. It would only cause greater fiscal disparities to a county to subtract from its in-lieu property tax the revenue a state realizes from the development of federal lands within its borders. This is like requiring a private land county to deduct from the local tire or paper factory's property tax the corporate net income taxes these factories paid to the state.

It is unfair to advocate further reductions of county income for no other reason than they receive revenues from the public lands. Manufacturing counties have and continue to receive as large and larger revenues from their taxes. Yet no one would ever suggest that counties in those states should be penalized by subtracting state taxes on private industry from the property taxes of every county within the state.

Property taxes on all privately held land, regardless of use, is based upon both the land and improvements thereto. A private property owner cannot separate out taxes from his land and the timber stand or producing mine thereon and deduct one from the other. Yet, when the property owner is the federal government, obviously a different standard applies and the property owner can do just that. While PILT counties accept this arrangement, S. 1282 would separate the value of the land within a county from the value of improvements throughout the state, a perversion of all property tax principles.

Public lands counties are rural and tend to be poor. The federal lands within their borders are often their only economic resource, and may often be non-renewable. This is no different than the county whose economic life is dominated by manufacturing, such as a steel mill or automobile factory. But, because the federal government is exempt from paying local taxes and the private manufacturer is not, a basic equity principle of public finance is violated: that tax payers in similar situations should be treated similarly. No county would let the private manufacturer off the hook because he also pays state and federal taxes.

I also want to add a word about the Refuge Revenue Sharing Act, a PILT program for counties with national fish and wildlife refuges. S. 1282 would also severely reduce payments under that Act. The program affects 700 counties.

This Act, like PILT, was created to correct several glaring fiscal disparities. Congress recognized that many wildlife refuges produce little or no income to be shared with the county, and what small revenue they did produce was steadily declining. Yet, refuges often occupy a largy part of a county, eroding its tax base and not providing any economic resources. For example, Minnesota has 14 refuges spread over 31 counties.

Further, Congress recognized that many refuges were created and enlarged by ongoing acquisition of private lands. It was concerned that under the Wetlands Loan Act, which requires a state's consent for federal land acquisition for wildlife habitat, counties would fight further acquisition because private lands were leaving the tax rolls with no corresponding compensation.

S. 1282 would eliminate the appropriation under the Refuge Revenue Sharing Act, and return to the receipt system, thereby resurrecting the fiscal disparities Congress sought to ameliorate.

While we support the Administration's approach to devolution -- returning responsibilities to state and local governments -- counties must have the fiscal

resources to carry out these responsibilities. There must be a commitment to strengthen the fiscal capacity of local government so that it has the power and resources to meet its needs efficiently and without bureaucratic requirements and red tape.

In a time when everyone is talking about returning taxes to the states and localities, the PILT program is an example of such a program that is already implemented. It is resource return directly to the counties, and operates with less than one percent overhead and with no red tape or costly, time-consuming application procedures.

S. 1282 is designed to take money away from counties rather than return resources to them to provide services to federal property.

PILT is not a categorical grant program or a giveaway. As a large property owner, the federal government is being asked to assume the responsibilities of any other landowner within a county and pay its property taxes. NACo cannot emphasize strongly enough how integral this program is to over 1500 county governments. We believe it only equitable that the country's largest landowner should continue to use the PILT program to compensate for the fiscal disparity this creates. S. 1282 goes against the principles of federalism, harms public lands counties, and we strongly oppose it.

I want to thank you for the opportunity to testify today. I would be pleased to respond to any questions you may have.

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
PAYMENT IN LIEU OF TAXES

COMPARISON OF FY1982 PROPOSAL
AND FULL FY1980 PAYMENTS

STATE	FULL FY1980 - PAYMENTS	ESTIMATED FY1982 PAYMENTS under S. 1282
ALABAMA	$ 116,189	$ 72,237
ALASKA	4,141,650	3,782,850
ARIZONA	7,729,636	5,139,032
ARKANSAS	1,646,593	333,213
CALIFORNIA	11,651,308	4,265,030
COLORADO	7,621,687	2,294,968
CONNECTICUT	4,936	463
DELAWARE	4,919	3,060
DIST. OF COL.	5,112	5,112
FLORIDA	2,069,538	223,260
GEORGIA	792,044	169,277
GUAM	230	230
HAWAII	35,783	4,872
IDAHO	6,810,016	4,410,686
ILLINOIS	327,008	48,469
INDIANA	319,367	96,457
IOWA	128,712	19,585
KANSAS	352,781	55,932
KENTUCKY	747,211	461,704
LOUISIANA	136,347	94,104
MAINE	51,568	7,195
MARYLAND	147,020	6,359
MASSACHUSETTS	158,885	2,964
MICHIGAN	1,633,784	521,052
MINNESOTA	1,496,104	473,941
MISSISSIPPI	433,291	159,330
MISSOURI	1,045,704	206,314
MONTANA	8,201,080	2,718,476
NEBRASKA	333,882	48,598
NEVADA	5,279,663	3,802,409
NEW HAMPSHIRE	301,672	235,141
NEW JERSEY	160,430	7,367
NEW MEXICO	9,735,786	2,125,098
NEW YORK	127,128	16,029
NORTH CAROLINA	908,117	438,556
NORTH DAKOTA	580,256	211,775
OHIO	426,367	66,152
OKLAHOMA	796,486	134,791
OREGON	2,820,079	2,693,347
PENNSYLVANIA	501,414	64,427
PUERTO RICO	16,983	2,790
RHODE ISLAND	1,497	0
SOUTH CAROLINA	100,339	83,091
SOUTH DAKOTA	1,880,429	312,365
TENNESSEE	661,116	310,325
TEXAS	1,321,505	254,491
UTAH	8,270,714	3,248,535
VERMONT	137,135	37,940
VIRGINIA	1,487,820	1,026,961
VIRGIN ISLANDS	20,787	8,363
WASHINGTON	1,476,732	1,139,572
WEST VIRGINIA	809,549	400,220
WISCONSIN	746,179	581,854
WYOMING	6,803,410	2,929,671
TOTAL	$103,514,178	$45,756,040

Senator DURENBERGER. Next we have Mr. Roy Orr, commissioner of Dallas County, Tex., representing the Advisory Commission on Intergovernmental Affairs. He is accompanied by Wayne Anderson, the executive director of ACIR.

Please come up to the table. We look forward to your statement.

TESTIMONY OF ROY ORR, COMMISSIONER, DALLAS COUNTY, TEX., REPRESENTING THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, ACCOMPANIED BY WAYNE ANDERSON, EXECUTIVE DIRECTOR, AND ROBERT EBEL

Mr. ORR. First of all, Mr. Chairman, I am Roy Orr, the commissioner of Dallas County, Tex., and a member of the Advisory Commission on Intergovernmental Relations. As you indicated, I have Dr. Robert Ebel with me this morning as well as Wayne Anderson. Dr. Ebel is the principal researcher who prepared ACIR's recent study entitled "Payments in Lieu of Taxes on Federal Real Property."

ACIR, in fact, has undertaken two major research projects dealing with payments on federally owned real estate. In 1975, under a contract with the National Forest Service, we evaluated the programs enacted by the Congress under which certain payments per acre are made on national forests, national parks, and nearly all other Federal public land holdings. We followed that report with our recently completed report on non-open-space Federal properties. It is this latter report that constitutes the basis of my testimony today.

So that I can keep my oral testimony short, I request that the executive summary of ACIR's new report be made a part of the record.[1]

Senator DURENBERGER. The summary will be made part of the record of these hearings.

Mr. ORR. The ACIR study identified two substantial problems: first, the erosion of State and local property tax bases that results from the exemption of Federal property; and, second, the fact that Congress has responded to calls for compensation by creating a patchwork of inequitable, incomplete, and inconsistent Federal payment programs.

ACIR's principal recommendation to correct these problems is that Congress should enact a uniform system of payments in lieu of taxes—a PILT program—to provide Federal payments to States and localities equal to the taxes which would be payable if Federal property were taxable.

The Federal Government's holdings are, of course, vast. You have cited several cases this morning. In addition to over one-third of the country's land area, it owns 23,988 installations, 2,598 million square feet of floor area, and various other facilities. The total value of U.S. real property was approximately $280 billion in 1978—23 percent in land, 53 percent in buildings, and 24 percent in structures and facilities. Furthermore, 75 percent of the Government's property value is represented by non-open-space property—that is, Federal real property other than grazing, forest, and park-

[1] See p. 126.

type lands for which separate compensation is provided. The tax exemption on Federal holdings results in a loss of $3.65 billion in real property taxes to State and local treasuries. About 96 percent of this amount would go to local governments and the Federal PILT payments would be equal to about 6 percent of their property tax revenues.

Congress has responded to some of the local governments within whose boundaries it holds tax-exempt real property, but its incremental, ad hoc actions do not add up to anything approaching a comprehensive and consistent approach. In some cases Congress has consented to full taxation and in others it has made in-kind contributions.

As a third and the most important method of compensation, the Federal Government makes payments to local governments of three types: (1) revenue- or receipt-sharing payments; (2) payments in lieu of taxes [PILT]; and (3) a variety of formula-based payments.

At present there are 57 different programs providing direct payments to compensate for federally owned tax-exempt real property. These programs contain provisions for 64 different payments to local governments, with a total budget authority in 1979 of $2.09 billion. There are 25 receipt-sharing payments, 18 PILT payments, and 21 formula payments.

A principal question the ACIR report investigated was whether, as a general rule, the presence of Federal tax-exempt real property significantly explained the existence of economic, social, or financial problems in local jurisdictions. If the answer was yes, then one might conclude that Congress, by providing the many aid programs intended to address these needs, has done enough. A payment in lieu program could hardly be justified if it were only a back door way to increase Federal aid. If, however, the answer was no—that is, that a payment in lieu program did not overlap with the purpose and scope of the Federal aid programs—then the duplication argument against a payment in lieu program collapses. Indeed, the answer was no.

The Commission's primary conclusion is that the Federal immunity from real property taxation violates the equity principle of public finance which requires that taxpayers—here, institutions—in similar circumstances be treated similarly. Federal property, like private property, contributes to the costs of public safety, streets, mass transportation, the courts, and education for local children; but the Federal Government gets a free property tax ride. Another equity problem exists because the Federal Government indirectly pays property taxes on private buildings it leases but, at the same time, it also operates out of fully tax exempt real property which it owns.

Additionally, the report observes that the Federal Government, because it is free from paying taxes on the property it owns, often underestimates the value of that property for alternative economic uses and does not take the management actions to change the use of its real estate that would be in the interest of the Federal Government and the community. Private owners economize on the use of choice land and expensive facilities because of the property tax, but Federal managers are not disciplined by this annual pressure.

In its examination of the merits of using a full real property tax equivalency base for establishing the PILT payments, ACIR also evaluated several alternative payment bases. Our report contains full discussion of a cost-of-services approach, discounting for services the Federal Government provides, a net benefits or benefit-cost approach, several fixed-formula payment bases, and a threshold approach under which a Federal payment would be made only if Federal property in a community exceeded some threshold measure. Primarily because of equity, measurement, and administrative considerations, all were found inferior to the full equivalency approach.

Implicit in statements I have already made are three good reasons for the Federal Government to enact a payments in lieu of taxes program.

First, there are gains resulting from simplification: by eliminating the existing patchwork of programs, the Congress would not only reduce its own workload but also streamline the Federal-State-local relationship.

Second, a uniform in lieu of taxes program would establish a soundly based, systematic Federal payment policy and eliminate the inequities created by the present patchwork.

Third, Members of Congress, like their Canadian counterparts, would, we believe, conclude from experience that a uniform payments in lieu program is superb intergovernmental relations. Mr. Douglas H. Clark, assistant director of Federal-Provincial Relations for the Department of Finance of Canada, testified before our Commission that the Canadian 20-year-old payments in lieu program creates more citizen goodwill than any other Federal program or activity. The reason for this public relations gain is straightforward: people see the Federal Government as accepting its fair share of property taxpaying responsibility.

To administer a PILT program, the Federal Government basically would be treated as if it were a local property taxpayer and thus would conform to established State and local taxing procedures, including all provisions for administrative and judicial review of assessments, tax rules, and tax levies. Administrative considerations regarding assessment reviews and appeals may present some operational, but not unusual, difficulties. In fact, the notion of the Federal Government reviewing and, when necessary, appealing its property tax payment is not only not new, it is already an ongoing process in some agencies such as the U.S. Postal Service. In Canada, the Federal review process has worked smoothly through a Federal real estate board.

Taxing jurisdictions would treat their payments from the Federal Government as part of their property tax revenues. From an economical and operational view, as well as from a congressional workload and oversight perspective, the enactment of a comprehensive uniform PILT program would be best accomplished if, when authorized, it replaced many of the existing ad hoc Federal payment programs. By replacing existing non-open-space Federal payment programs, the net cost of the uniform PILT system could be reduced to approximately $2.65 billion—that is, $3.65 billion minus a saving of about $1 billion.

Just to sum it up, Mr. Chairman, our Commission really appreciates the fact that you are holding these hearings on payments in lieu of taxes and that you provided us this opportunity to testify.

I serve on the ACIR and other groups. We also think that trying to restore money to local governments is not an easy task, and I don't envy you. Nevertheless, it is a problem, as my good friend from Arizona, Dr. Conrad Joyner, indicated earlier. Thank you.

Senator DURENBERGER. Thank you very much for your testimony.

Can you tell me for the record how much the Federal Government spends in total to fund the 57 PILT programs? Is that readily available?

Mr. EBEL. $2.04 billion.

Senator DURENBERGER. $2.64 billion?

Mr. EBEL. $2.04 billion.

Senator DURENBERGER. Much of your statement, Roy, is in defense of full tax equivalency payments. I want to first get at one of the potential objections to that position.

I referred in my opening statement to a case which we all remember from law school—*McCulloch* v. *Maryland,* which established immunity doctrine. It seems to me that we have to address that and dispose of it in some fashion before we move on to the kind of commitment which you are suggesting. I hesitate to dismiss it too quickly. Don't you think that the patchwork which, in effect, exists in our present Federal system is some evidence that Congress has been really sort of stepping around the immunity doctrine on a kind of a case-by-case basis—57 cases probably in total? Congress really has not disposed of the issue of the immunity doctrine by passing these 57 programs. Would that in your judgment be a correct statement?

Mr. ORR. I think probably the reason we have come up with the patchwork system is because different administrations, and so forth, have different people who naturally feel some responsibility, surely we would. If they were going to exercise complete immunity, we probably wouldn't have any. I think that is probably what you are saying.

So I would say yes to your question, but sometimes patchworking is not the way to stop the problem. You patch it here and you have another hole tomorrow.

Senator DURENBERGER. If someone wanted to raise the issue—someone who didn't believe, as ACIR clearly does, in some form of tax equivalency program—we really would be hardpressed to say that just looking at these 57 programs has put to rest the whole notion of immunity. I mean, it still could be raised and some justification would have to be made for going around the immunity doctrine, would it not?

Mr. EBEL. I think the answer, Senator, is no to that. You referred to *McCulloch* v. *Maryland.* In his statement on the case, which had to do with the Baltimore branch of the Second Bank of the United States, Justice Marshall specifically declared that his decision did not deprive the States of any resources they originally possessed and specifically does not extend to a tax paid by the real property of the bank.

The immunity doctrine has gone through a great change since that 1819 decision. I think that the immunity doctrine in this con-

text is really not an important barrier to the discussion of a tax equivalency or alternative comprehensive approach.

Senator DURENBERGER. Then let me continue. That is your opinion on *McCulloch* v. *Maryland*. The major justification for a comprehensive PILT program is premised in, and I will quote you, "a basic equity principle of public finance which states taxpayers in similar situations should bear similar burdens." I think I heard that statement earlier today.

It seems to me that, in these times of budget austerity, I would be more convinced that the existing PILT programs are not adequate if you could provide me with more than just an equity argument. I just went through the closing of an air base in my State, the last Federal facility left in my State. I will be lynched in elections next year, potentially, for losing that. There must have been some value to this relatively small facility.

Later in the day we will be hearing from the Mayor of a city in Virginia who will tell us we owe him all kinds of money. But I suspect if we ever try to—I know what we went through in debating where we were going to retrofit some aircraft carrier a couple years ago. Virginia lost out to Pennsylvania and their taxpayers lost $500 million. I recall the debate very well.

It seemed to me that the people in the Portsmouth area, the Virginia Beach area, seemed to place some value on a Federal presence of this kind.

I won't even ask you a question. I have laid a premise probably for an obvious question. You can go ahead and respond.

Mr. ORR. I would like to respond to that in the case of Texas, which I am more familiar with, and, specifically, Dallas. I think about Texas Instruments, which is a pretty sizable installation in Dallas, Tex., and other places around the country. They also bring a great deal of economic stability to our community. But they also pay taxes.

You know, I put the question back to you, Senator, what if none of these people, including any of the major industries, or mom and pop grocery stores, for that matter—they bring in a certain amount of money—what if they didn't pay taxes? We don't have a sales tax, for example, for the county, or for all the other things like real estate. The ad valorem tax is the only way we can exist for all practical purposes.

What if nobody paid taxes? How would we exist? They bring in payrolls and I realize it turns over nine times or whatever the chamber of commerce says. But nevertheless, this is still a problem.

As Dr. Joyner was saying, you have to build roads to those installations and you have to keep them up and provide police protection and fire protection, in some cases maybe food stamps, I don't know. But nevertheless, we have to provide all of those, as a good neighbor.

I heard President Reagan about the time of his election, or maybe just prior to his election—in fact, it was after, because it was in March—that this was a good neighbor policy, and certainly they occupy a certain amount of space and they ought to pay, as we have said about the Canadians, our neighbors to the north.

That makes a good argument. I think that makes good revenue. I don't think you would say the same thing because of some installation out here south of town. I don't think you would be going with income taxes because they bring stability to the community.

Senator DURENBERGER. I take it there are already inconsistencies. Even if you follow the argument of my question, there are inconsistencies already built into the system.

When GSA moves into a community because we need to establish a Federal presence there, they will go in and rent space from some owner of a private office building. They will pay him the same rent that anybody else would pay. That owner of the building will pay taxes on that property.

Some Senator, who is planning to retire and would like to have an office building named after him in his home State, decides "That is enough of that. We are wasting money leasing property on the private market. Besides, we need that for nongovernmental purposes. Let's build a Federal office building in the downtown capital city of my home State."

So, we already are relatively inconsistent in our approach to this issue. In some cases we are, in effect, providing tax equivalency and in other cases we are not.

I understand your argument mainly to be that it is very difficult for us to try to get into the game of determining the difference between the benefits and the costs and of treating the Federal Government differently from the way we do other owners of property. We should abandon that kind of an effort and move in the direction of full equivalency, is that correct?

Mr. ORR. I think that is correct, yes, sir.

Mr. ANDERSON. That is certainly what our report says, Mr. Chairman.

If I may indulge in a personal note, I once tried to scalpel out benefits and costs for all different categories of tax exempt property in the city of Evanston, Ill., where I was city manager. We concentrated on Northwestern University and hospitals and large retirement homes and so forth. You just become very, very arbitrary. Even if you thought that you could somehow develop that type of calculation for the many thousands of Federal installations, you would find—as you find with other land uses—that some of them, if they paid full taxes, would be generating revenues equal to 10 times the cost that they generated and in other cases they would be generating revenues of a half or a third of the costs they generate.

You talked about your military base. Let me just mention the Washington Post study of a few months ago which showed that in many, indeed most, cases in that story, of the communities that had lost military bases, the same land or facilities had gone into uses which were more productive for them.

This is the most confusing issue about payments in lieu of taxes. Communities out there fight to acquire or retain the worst taxpaying, polluting, low-wage-paying types of facilities. They allow the belief that they are worth having just for the economic activity they generate without the taxes, if there were no taxes.

Senator DURENBERGER. The problem that will be raised when the mayor joins us—and, of course, it is probably well illustrated as he

explains his situation down there—is the competition problem. We all know we compete for private enterprise and the location of a new manufacturing plant, refinery, or whatever in our community. Sometimes that competition takes place on a less than legitimate level. However, most of the time it is pretty fair competition because there is the old free enterprise system which is working out there and dollars and cents make a difference.

In our political system it doesn't always work that way. I just illustrated that by telling you about a $500 million competition between Virginia and Pennsylvania. We don't do things that necessarily make sense.

Going directly to the issue of who should be reimbursed for what, the problem of reimbursing a community like Portsmouth in a larger metropolitan area is another problem. I mean, some would say that the payments in lieu of taxes should go directly to Portsmouth. I would suggest that perhaps—and I don't know enough about Virginia government, even less after the elections yesterday—the metropolitan area is somehow affected in terms of services and so forth, as the mayor will probably mention. Just to structure a payments in lieu of taxes system which would, in effect, move taxes back to Portsmouth doesn't necessarily address the problem for the larger metropolitan area. They will still carry the burden of the services for people who may live one place, educate their kids someplace else, and come to work in Portsmouth. Even though we may adopt the theory of a full tax equivalency, we still have an issue as to whom those payments will be made. I would ask you to comment.

Mr. ANDERSON. Our earlier study on national forest lands and other forms of open space addressed that question, but even in a broader sense. It asked should some of the types of payments that now go to counties for open lands go to States, recognizing that the States determine everything about structure and finance and State aid and that they could make sense of this in their own situation.

The Commission's conclusion in that situation was that the disruption—and this would have been if you were going to change payments that were then going to counties, and I appreciate all of them do not—but the disruption of that was not worth the gain you would get out of some State balancing. So you have a State possibility. You have a metropolitan or regional possibility of the type that you have mentioned, and that would somewhat mirror your "share the growth" plan in the Twin Cities area or you have a direct to the local government that has the property approach.

Again, everything that we have done tends to—it would recognize all of those issues—but it would tend to favor letting the payment go to the jurisdiction that has the property, as all other property taxes do. So that if you were going to try to attempt some equalization at, say, the metropolitan area, you would probably try to do it with maybe, as you do in the Twin Cities area, new real estate accessions or the sales tax or a State aid device. We would, certainly in much of our other work, recognize the high merit of trying to do some of that. But we wouldn't have selected this device.

Mr. ORR. Senator, this is not a new problem because nearly in every jurisdiction you have 7 or 8, in some cases maybe 50, taxing

entities within the same situation. You have the county, you have the State, you have the city, you have the school, you have the water district, levy district, hospital districts, on and on.

I am assuming the most equitable way is probably the same formula. If it takes 30 cents based on 100 percent of the valuation in the county to provide what we consider the necessary services, that is the same percentage that the Federal Government would get taxed if they owned a building downtown like the First National Bank.

Senator DURENBERGER. Let me ask you two other related questions. I will just use one of our neighboring States as an example. North Dakota uses the device of tax forgiveness as a way to attract investment into the State—for example, they have a law that forgives property taxes for 5 years. Then I will use the example of Minnesota which in metropolitan areas uses tax increment financing. It says to an investor, "You come in and pay only about half the going tax rate. Because of the benefits from your investment, we will spread the taxes among other benefiting property."

These are two relatively innovative ways to attract investment into the two States I have mentioned. How do these kinds of notions fit into your recommendation that we can just plain go with full tax equivalency in our Federal investment?

Mr. ANDERSON. I have a couple of responses, Mr. Chairman. Commissioner Orr also had some thoughts, I know, along these lines which he might want to exhibit.

But first, most of these incentives operate in the early years of a new development—the first 5 or 10—and some of them beyond that; but, at least, there comes a point under most of these arrangements at which the jurisdiction looks forward to full taxes. If it couldn't, why, it wouldn't be as anxious to have the development.

But the other thing, from the standpoint of national policy, when we were looking at regional competition, I think it was Deputy Secretary Bergsten of Treasury who came before our Commission twice absolutely wringing his hands, most particularly because of competition between Ohio and Michigan on the U.S. side with Ontario on the other side for automobile plants. He was wringing his hands about the self-canceling nature of these incentives, how it merely in the end was a transfer of resources from the public sector to the private sector. He appealed to our Commission to find some way to dampen this kind of competition.

At the same time, Mayor Carver of Peoria was granting that the competition was self-canceling and wasteful but said in Peoria they would use everything they could to capture all they could of Caterpillar's growth.

So the incentives are not necessarily, in all cases, in the national interest or good public policy. They do represent the extreme desire on the part of local governments to get an industry or an office building that somebody else might get. They don't represent good evidence that a Federal installation pays its way when it doesn't pay taxes.

Mr. ORR. You have one other problem, too. I think what Wayne says is exactly right, and it is what we basically have discussed among ourselves. But in some States, I know Texas is one of them, while it may not mean we don't have a basis for giving them incen-

tives, it still is illegal. When I take an oath, I have to serve on, unfortunately, in Texas, the equalization board. I take an oath I will put the equalization principle on the books. So that is the law. So I don't know how that would work. We would have to change some State laws in some cases and maybe city ordinances and county ordinances in other places.

Senator DURENBERGER. Thank you very much for your time. We have other questions, but we also have other witnesses.

Mr. ORR. Thank you.

[The prepared statement of Mr. Orr follows:]

PREPARED STATEMENT OF COMMISSIONER ROY ORR

Thank you Mr. Chairman. I am Commissioner Roy Orr of Dallas County and a county representative on the Advisory Commission on Intergovernmental Relations (ACIR). I am accompanied this morning by Wayne F. Anderson, Executive Director of ACIR and Dr. Robert Ebel, the principal researcher who prepared ACIR's recent study entitled Payments In Lieu of Taxes on Federal Real Property.

ACIR, in fact, has undertaken two major research projects dealing with payments on federally-owned real estate. In 1975, under a contract with the National Forest Service, we evaluated the programs enacted by the Congress under which certain payments per acre are made on national forests, national parks, and nearly all other federal public land holdings. We followed that report with our recently completed report on non-open space federal properties, and it is this later report that constitutes the basis of my testimony today.

So that I can keep my oral testimony short, I request that the Executive Summary of ACIR's new report be made a part of the record.

The ACIR study identified two substantial problems: first, the erosion of state and local property tax bases that results from the exemption of federal property; and, secondly, the fact that Congress has responded to calls for compensation by creating a patchwork of inequitable, incomplete, and inconsistent federal payment programs.

ACIR's principal recommendation to correct these problems is that Congress should enact a uniform system of payments in lieu of taxes -- a PILOT program -- to provide federal payments to states and localities equal to the taxes which would be payable if federal property were taxable.

The Extent of Federal Real Property - The federal government's holdings are, of course, vast. In addition to over one-third of the country's land area, it owns 23,988 installations, 2,598 million square feet of floor area, and various other facilities. The total value of U.S. real property was approximately $280 billion in 1978 -- 23% in land, 53% in buildings, and 24% in structures and facilities. Furthermore, 75% of the government's property value is represented by non-open space property, (i.e., federal real property other than grazing, forest, and park-type lands for which separate compensation is provided). The tax exemption on federal holdings results in a loss of $3.65 billion in real property taxes to state and local treasuries. About 96% of this amount would go to local governments, and the federal PILOT payments would be equal to about 6% of their property tax revenues.

The Federal Response

Congress has responded to some of the local governments within whose boundaries it holds tax exempt real property, but its incremental, ad hoc actions do not add up to anything approaching a comprehensive and consistent approach. In some cases Congress has consented to full taxation, and in others it has made "in kind" contributions. As a third and the most important method of compensation, the Federal government makes payments to local governments of three types: (1) revenue or receipt-sharing payments; (2) payments in lieu of taxes (PILOT); and (3) a variety of formula-based payments.

At present there are 57 different programs providing direct payments to compensate for federally owned tax exempt real property. These programs contain provisions for 64 different payments to local governments, with a total budget authority in 1979 of $2.09 billion. There are 25 receipt-sharing payments, 18 PILOT payments, and 21 formula payments.

The Case for a Uniform Payment in Lieu System

A principal question the ACIR report investigated was whether, as a general rule, the presence of federal tax exempt real property significantly explained the existence of economic, social, or financial problems in local jurisdictions. If the answer was "yes," then one might conclude that Congress, by providing the many aid programs intended to address these needs, has done enough. A payment in lieu program could hardly be justified if it were only a back door way to increase federal aid. If, however, the answer was "no" -- i.e., that a payment in lieu program did not overlap with the purpose and scope of the federal aid programs -- then the duplication argument against a payment in lieu program collapses. Indeed, the answer was "no."

The Commission's primary conclusion is that the federal immunity from real property taxation violates the equity principle of public finance which requires that "taxpayers" (here, institutions) in similar circumstances be treated similarly. Federal property, like private property, contributes to the costs of public safety, streets, mass transportation, the courts, and education for local children, but the federal government gets a free

property tax ride. Another equity problem exists because the federal government indirectly pays property taxes on private buildings it leases but, at the same time, it also operates out of fully tax exempt real property which it owns.

Additionally, the report observes that the federal government, because it is free from paying taxes on the property it owns, often underestimates the value of that property for alternative economic uses and does not take the management actions to change the use of its real estate that would be in the interest of the federal government and the community. Private owners economize on the use of choice land and expensive facilities because of the property tax, but federal managers are not disciplined by this annual pressure.

Finally, the ACIR study concluded that the McCulloch vs Maryland decision, that the federal government may not be taxed by a state or local government, is not a constitutionally-guaranteed mandate. Since the 1930s, the judiciary has sharply narrowed the scope of the immunities doctrine while Congress, at the same time, has increasingly recognized its fiscal responsibility to compensate state and local governments for the effects of federal tax immunity.

Alternative PILOT Payment Bases

In its examination of the merits of using a full real property tax equivalency base for establishing the PILOT payments, ACIR also evaluated several alternative payment bases. Our report contains full discussions of a cost of services approach, discounting for services the federal government provides,

a net benefits or benefit-cost approach, several fixed formula payment bases, and a threshold approach under which a federal payment would be made only if federal property in a community exceeded some threshold measure. Primarily because of equity, measurement, and administrative considerations, all were found inferior to the full equivalency approach.

What Does the Federal Government Have to Gain?

Implicit in statements I have already made are three good reasons for the federal government to enact a payment in lieu of taxes program.

First, there are gains resulting from simplification: by eliminating the existing patchwork of programs, the Congress would not only reduce its own workload but also streamline the federal-state/local relationship.

Second, a uniform in lieu of taxes program would establish a soundly based, systematic federal payment policy and eliminate the inequities created by the present patchwork.

Third, Members of Congress, like their Canadian counterparts, would, we believe, conclude from experience that a uniform payments in lieu program is superb intergovernmental relations. Mr. Douglas H. Clark, Assistant Director of Federal-Provincial Relations for the Department of Finance of Canada, testified before our Commission that the Canadian 20-year old payments in lieu program creates more citizen goodwill than any other federal program or activity. The reason for this public relations gain is straightforward: people see the federal government as accepting its fair share of property taxpaying responsibility.

Administration and Cost

To administer a PILOT program, the federal government basically would be treated as if it were a local property taxpayer and thus would conform to established state and local taxing procedures, including all provisions for administrative and judicial review of assessments, tax rules, and tax levies. Administrative considerations regarding assessment reviews and appeals may present some operational, but not unusual, difficulties. In fact, the notion of the federal government reviewing and, when necessary, appealing its property tax payment is not only not new, it is already an ongoing process in some agencies such as the U.S. Postal Service. In Canada, the federal review process has worked smoothly through a federal real estate board.

Taxing jurisdictions would treat their payments from the federal government as part of their property tax revenues. From an economic and operational view, as well as from a congressional workload and oversight perspective, the enactment of comprehensive uniform PILOT program would be best accomplished if, when authorized, it replaced many of the existing ad hoc federal payment programs. By replacing existing non-open space federal payment programs, the net cost of the uniform PILOT system could be reduced to approximately $2.65 billion -- that is , $3.65 billion minus a saving of about $1 billion.

ACIR Recommendations

In light of its findings and conclusions, the Commission made the following recommendations regarding the tax exempt status of federal- and state-owned

real property.

1. Improvement of the inventory of federal real property located within the United States.

The federal government lacks any procedure which permits it to know the current value of its real property holdings in the U.S. Except for the ACIR estimates for 1978, there is no inventory of the total value of tax immune federal property. In order to receive useful information for policy regarding the federal government's property wealth, Congress should ask the General Services Administration (GSA) to make major adjustments in its methods of collecting information so that a more adequate real property inventory will be available.

2. Congressional authorization for a tax equivalency system of federal payments in lieu of taxes on federal real property.

A PILOT program should be enacted that is restricted to those federal holdings not associated with open space properties which are at present covered under existing general receipts-sharing programs; that replaces rather than supplements the existing patchwork of in lieu of real property payments; that is administered under established state/local procedures, including all provisions for administrative and judicial review of assessments, tax rules, and levies; and that is separate from all other federal programs which provide general and categorical assistance.

3. State government enactment of a tax equivalency system of payments in lieu of taxes on federal real property.

State payments in lieu programs, which compensate local governments for the real property tax immunity of state-owned property, are, like those of the federal government, typically of a patchwork nature and lacking of any guiding principle for uniformity determining the level of a payment. Each state should examine its own real property tax immunity and consider authorizing programs designed to compensate local governments for revenues lost to them due to exemption of state-owned real property.

Mr. Chairman, our Commission appreciates the fact that you are holding this hearing on payments in lieu of taxes and that you provided us this opportunity to testify. Thank you very much.

Senator DURENBERGER. Our next witness is Congressman Richard Ottinger. Is the Congressman here this morning? Not yet.

Next is the mayor, about whom we have been talking, Julian Johansen, mayor of Portsmouth.

Mayor, welcome. Sorry to use you as an example without having you up here.

Mr. JOHANSEN. I feel like I have been preempted a little bit here. [Laughter.]

TESTIMONY OF JULIAN E. JOHANSEN, MAYOR, PORTSMOUTH, VA., ACCOMPANIED BY TED MASTERS

Mr. JOHANSEN. I certainly do appreciate the opportunity, Mr. Chairman, to appear before this subcommittee. With me I have Ted Masters who is a member of our city government staff down in Portsmouth.

We have submitted a detailed statement for the record, which I won't go into, but I would like to make a few remarks, if I may.

Senator DURENBERGER. Your full statement will be made a part of the record. You may proceed.

Mr. JOHANSEN. Of course, we are here today to talk about the fiscal disparities that are created by the presence of large Federal facilities and about the need for a national program of payments in lieu of taxes.

We might look first at what the nature of the problem is which we are discussing here. There are certainly several key elements.

As we have talked about here this morning, there are many localities throughout the country that have disproportionate amounts of nontaxable Federal real property within their boundaries. These are very extensive holdings, as has also been discussed here this morning. But I think it is important to remember that these properties are not spread uniformly throughout the country. They are bunched up in some cases.

Now, local governments, as you are well aware, have to provide a wide array of services for their community members. I am talking about the residents, the private businesses, the industries and public institutions and all the rest. Without police and fire protection, schools, streets, transportation, and other services that we have, a locality of course could not adequately support its constituent members. I think we all agree that a healthy community is important to everyone.

Now, city and county governments are heavily dependent on one truly local source of revenue. That is the tax on real property values. Although there are other taxes and service fees which generate local revenues, property taxes remain our mainstay, at least in Portsmouth, just as income taxes are the primary source of revenue at the Federal level. Quite naturally, any government which has substantial erosion of its principal tax base, whatever that tax base may be, also will have substantial problems in serving its residents. And that circumstance, unfortunately, is exactly the problem which Portsmouth so aptly illustrates.

I would like to go into Portsmouth just a little to give you one example of how this situation impacts some communities.

Portsmouth was settled back in 1752 and incorporated in 1858. It is one of the country's oldest seaports. The city has been associated with the shipbuilding and ship repairing industry and with other maritime activities since its earliest days. The Norfolk Naval Shipyard, which, incidentally, is the oldest in the Nation, was established in 1767, just 15 years after the city was settled.

I might point out here that the Norfolk Naval Shipyard is actually located in Portsmouth, Va. I am still trying to figure out the reason for that name. [Laughter.]

Portsmouth itself is a very compact, densely developed community. It contains some 30 square miles of land and about 104,500 people, according to the 1980 census. There are only 1,300 acres of undeveloped land remaining, and most of that is land which has already been committed to housing or industrial development. Future expansion is not possible because Portsmouth is surrounded on all sides by water, or by other incorporated municipalities.

Portsmouth's economic life has been and continues to be dominated by the Federal presence. Four large military installations occupy over 2,000 acres of the city's total land area of 29,141 acres. Another 2,560 acres is contained in the Craney Island landfill operated by the Army Corps of Engineers to store dredge material collected from the area's shipping channels. Together they constitute over 14 percent of the total land area in the city.

But that is not really the critical thing that we are talking about here. Much more significant than the pure size of the land holdings is the value of these properties that are occupied. With the exception of some 70 acres for two Navy housing projects, all the Government installations are located on prime industrial waterfront sites, land which is among the most valuable in the entire city. According to the most recent estimate by the Portsmouth City Assessor, who, incidentally, was using an official inventory from the Department of the Navy, these Federal properties are valued at over $1.7 billion. This amount represents 53 percent of the city's $3.3 billion real property tax base.

As an aside here, we might look at the city of Washington, D.C., as a comparison. As I understand it, some 36 percent of their total property values are occupied by Federal installations as opposed to our 53 percent in Portsmouth, just to give you a comparision that maybe you can identify with here locally.

If the city were able to add the shipyard, the Coast Guard base and other tax-exempt Federal facilities to its real property tax rolls, the increased tax yield would be almost $24 million this year based on the current tax rate in Portsmouth. That amount would more than double our current tax revenues from real property.

I would like to give you an example of the kind of impact I am talking about. I am sure you are aware that Newport News has a very large shipyard. Newport News assesses this at $252.3 million. That shipyard pays the city $3.4 million each year in taxes. It occupies some 400 acres of land.

Now we look at our own naval shipyard. It is valued at $1.37 billion. The taxes that we receive from that of course are zero. It occupies some 843 acres of land in the city of Portsmouth, which of course is completely eliminated from the tax rolls.

Now, of course, as has been said here this morning, you can talk about the payroll and certainly I acknowledge that there is a payroll. There are also jobs involved. We appreciate these things, because if we suddenly pulled all of this out, we would have a big hole that we wouldn't immediately be able to fill because this has been an evolving process over many years, as it has with the other installations.

There is another point I might make here. We were talking about people who work one place and live another. As a matter of interest, on the shipyard again, using that as an example, 35 percent of the people who work at the shipyard actually live in Portsmouth. The rest go out to suburbia and, of course, that is where most of the payrolls are then spent.

I want to make it clear here that the city of Portsmouth does not want to be bailed out by the Federal Government. We are trying very hard to attract industry and we are having some success in our city. But, instead, we very much desire tax equity and the ability to fully use our traditional tax base.

We believe that local governments should be able to treat all property owners alike.

We also believe that the full burden of supporting the national defense should be shared at least somewhat equally by all Americans. Cities like Portsmouth should not be expected to subsidize Federal properties beyond what we might call a reasonable limit. I submit to you that $24 million in lost tax revenues for a city of our size is just not reasonable. It means that we operate from a very narrow tax base and we place a heavy burden on our citizens in our city.

Again, as an aside, I might say we have the highest property tax rate of any of the surrounding entities in our area and, at the same time, we are providing marginal services in our city. Of course, the problem we are describing here is certainly a prime reason for that situation.

The Portsmouth case offers substantial evidence that a comprehensive approach is needed to the fiscal disparities caused by tax-exempt Federal property. No matter what legislation is adopted, it should have several key features, at least from our standpoint.

Localities should be compensated for lost revenues, not reimbursed for the cost of direct services to Government installations.

Again I might inject here that it would be very difficult to determine and administer a program of services. Actually, many large private industries furnish services. They provide their security. They provide, in some cases, immediate emergency-type response and this kind of thing.

Payments in lieu of taxes should be eligible to fund general municipal purposes, not just selected categories of programs or consumer groups.

The program should be easily administered and require a minimum of bureaucratic redtape.

The amount of payments should be predictable from one year to the next so that localities can plan ahead with a relative degree of certainty that its revenues from this source will not shift dramatically from year to year.

Now, we realize that you will face a number of obstacles, as have been discussed here this morning, in creating a payments in lieu of taxes program. However, during this period of increased interest in making the Federal system as workable as possible, it is time to address the issue head-on and to develop a program of payments in lieu of taxes. Portsmouth and cities like it could solve more of their problems with essentially local sources of revenues.

I would just like to make one final comment here. I want to say that we appreciate our Federal installations in Portsmouth. I don't want anyone to misunderstand that by what we are talking about here this morning. We are just looking for some tax equity. These people are our friends and our neighbors. They have been that for many, many years. It so happens I spent 37½ years in the military myself. I understand the need for these types of facilities. That is not the issue.

What we are talking about is just really our long-term ability to meet the needs of the city. Frankly, we need some help. Tax equity will provide that help. I feel it is fully justified.

Thank you very much, sir, for the opportunity.

Senator DURENBERGER. Thank you.

Could you describe briefly the impact of the cutbacks that the school impact aid program is going to have on access to the property tax portion?

Mr. JOHANSEN. School impact aid is one method, as I said, for compensating entities for the Federal presence. However, it doesn't really always work out that way.

For example, in Portsmouth, we are receiving about $800,000 a year in impact aid. As you know, or certainly I assume you know, the impact aid is paid by where the person lives, not where they work. Let's take Virginia Beach, for example, which is a suburban community and is certainly not impacted in the way we are with Federal installations. They receive something over $6 million a year in impact aid.

Here again I have to point out that impact aid—you have to remember that people who live off the base and live in a community, they themselves are contributing. Either they own a home or are renting a home, which indirectly pays taxes, and this kind of thing. I am not against impact aid.

What I am saying is that it does not solve this kind of a problem that we are talking about here. I realize that it may have started off that way, but as far as we are concerned, we are talking about $24 million if we had full tax equivalency as opposed to $800,000 in impact aid.

Senator DURENBERGER. What it illustrates is the fact that the Federal Government is recognizing a burden which it is adding to local governments by its presence in a particular area. In effect, the people are being compensated, depending upon where they live, indirectly by the money going to the installation involved—in this case the school. However, money is, in effect, following the persons involved in the particular Federal project.

If we look to payments in lieu of taxes generally, we really are not looking at the number of people who need fire protection, police protection, or access to sewer and water and all that sort of thing. You are merely suggesting to us—as have others here

today—that we follow the approach of putting a market value on a property, then applying an assessed valuation for tax purposes to that, and having the Federal Government provide the community in which the property is located an equivalency payment. There is a distinction between what we have been doing, which seems to me to be more directly related to the cost of services, than would exist in a flatout equivalency payment.

Suppose we abandon school impact aid and all of the rest of these things. Then we said we are just going to take the naval base worth $200 million, whatever it is. We would let you determine what impact that would have in terms of your tax levy and then we would write you out a check. What does that do for Virginia Beach or for a lot of these other communities which are an important part of providing services to that facility?

Mr. JOHANSEN. Of course, I would have to reply to that in the same way that I think I did just a moment ago. The people who live in those communities actually are contributing, as are other residents in those communities, for the cost of the schools, for the cost of the roads, and this kind of thing. So, I am not convinced in my mind that there is some additional payment that is needed in those communities. I don't think that impact aid is doing the job that it was intended to do.

Actually, what we are talking about here is tax erosion, an erosion of our tax base. We unfortunately are very badly impacted in this area. Of course, as I said, we are thankful to have these installations. However, if they had not occupied these prime industrial lands, I have little doubt that we would have other industries that would be in there now which would, in fact, be paying the full tax equivalency that we are not receiving at this point.

Senator DURENBERGER. Could you give me a general idea of the current property tax levy in Portsmouth as a percentage of the market value of property in the community?

Mr. JOHANSEN. We assess, sir, at 100 percent in Virginia, and that is State law. We have to reassess every year. Our tax rate in Portsmouth is $1.35 per hundred.

Senator DURENBERGER. $1.35 per hundred?

Mr. JOHANSEN. Yes, sir.

Senator DURENBERGER. What does the State of Virginia provide by way of State collected taxes—expressed as a percentage of your municipal budget?

Mr. JOHANSEN. I think it is right at about 39 percent of our operating budget is reimbursements. Now, that is not all State. Some of that would be Federal also. I don't have a breakdown on those.

Senator DURENBERGER. Comparably, do you know the answer with regard to the school districts?

Mr. JOHANSEN. Actually, the appropriations for schools are made by the city. A flat amount is appropriated and then the schools operate within that overall budget. The cities don't control their budget or how they spend it, but they control the tota. amount they receive.

Senator DURENBERGER. So, when you gave the figure 39 percent, that includes elementary and secondary education as well as other municipal services?

Mr. JOHANSEN. Of course, much of the school money is contributed locally. It is not all contributed from the outside. So the 39 percent, that is not exactly true that all of the school costs come out of that. Actually, our school system in Portsmouth this year is running us right around $35 million a year out of a $77 million operating budget.

Senator DURENBERGER. Of that $35 million, how much is coming from the State of Virginia?

Mr. JOHANSEN. I don't have a breakdown on it, sir. I could tell you this, that there is a lot of controversy about that, that the State is not contributing its fair share.

Of course, they have their problems up there, too. But it comes to something in the neighborhood of over $1,200 per pupil. You have to sit down and figure out the total.

Senator DURENBERGER. Thank you very much for your testimony. As I indicated, your full statement will be made part of the record.

Mr. JOHANSEN. Thank you very much.

Senator DURENBERGER. Thank you for being here.

[The prepared statement of Mr. Johansen follows:]

REMARKS BY MAYOR J. E. JOHANSEN
ON PAYMENTS IN LIEU OF TAXES

BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
UNITED STATES SENATE

November 4, 1981

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS. MY NAME IS JULIAN E. JOHANSEN, MAYOR OF THE CITY OF PORTSMOUTH, VIRGINIA. I AM HERE TODAY TO SPEAK TO YOU ABOUT THE FISCAL DISPARITIES CREATED BY THE PRESENCE OF LARGE FEDERAL FACILITIES AND ABOUT THE NEED FOR A NATIONAL PROGRAM OF PAYMENTS IN LIEU OF TAXES.

PROBLEM

FIRST, WHAT IS THE NATURE OF THE PROBLEM WHICH WE ARE DISCUSSING? THERE ARE, IT SEEMS TO ME, SEVERAL KEY ELEMENTS

o MANY LOCALITIES THROUGHOUT THE COUNTRY HAVE DISPROPORTIONATE AMOUNTS OF NON-TAXABLE FEDERAL REAL PROPERTY WITHIN THEIR BOUNDARIES. THE FEDERAL GOVERNMENT HAS EXTENSIVE LAND HOLDINGS - SOME $279 BILLION IN 1978 ACCORDING TO ESTIMATES BY THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS. IT IS IMPORTANT TO REMEMBER THAT THOSE PROPERTIES ARE NOT UNIFORMLY SPREAD THROUGHOUT THE COUNTRY.

o LOCAL GOVERNMENTS MUST PROVIDE A WIDE ARRAY OF SERVICES TO ITS COMMUNITY MEMBERS - RESIDENTS, PRIVATE BUSINESSES AND INDUSTRIES, AND PUBLIC INSTITUTIONS. WITHOUT POLICE AND FIRE

PROTECTION, SCHOOLS, STREETS, TRANSPORTATION, AND OTHER SERVICES, A LOCALITY COULD NOT ADEQUATELY SUPPORT ITS CONSTITUENT MEMBERS. A HEALTHY COMMUNITY IS IMPORTANT TO EVERYONE.

o CITY AND COUNTY GOVERNMENTS ARE HEAVILY DEPENDENT ON ONE TRULY LOCAL SOURCE OF REVENUE - THE TAX ON REAL PROPERTY VALUES. ALTHOUGH THERE ARE OTHER TAXES AND SERVICE FEES WHICH GENERATE LOCAL REVENUES, PROPERTY TAXES REMAIN OUR MAINSTAY, JUST AS INCOME TAXES ARE THE PRIMARY SOURCE OF REVENUE AT THE FEDERAL LEVEL. QUITE NATURALLY, ANY GOVERNMENT WHICH HAS SUBSTANTIAL EROSION OF ITS PRINCIPAL TAX BASE - WHATEVER THAT MAY BE - ALSO WILL HAVE SUBSTANTIAL PROBLEMS IN SERVING ITS RESIDENTS. AND THAT CIRCUMSTANCE, UNFORTUNATELY, IS EXACTLY THE PROBLEM WHICH PORTSMOUTH SO APTLY ILLUSTRATES.

PORTSMOUTH AS A CASE STUDY

PORTSMOUTH, SETTLED IN 1752 AND INCORPORATED IN 1858, IS ONE OF THE COUNTRY'S OLDEST SEAPORTS. THE CITY HAS BEEN ASSOCIATED WITH THE SHIPBUILDING AND SHIP REPAIRING INDUSTRY AND WITH OTHER MARITIME ACTIVITIES SINCE ITS EARLIEST DAYS. THE NORFOLK NAVAL SHIPYARD, OLDEST IN THE NATION, WAS ESTABLISHED IN 1767, JUST 15 YEARS AFTER THE CITY WAS SETTLED.

PORTSMOUTH IS A COMPACT, DENSELY DEVELOPED COMMUNITY, CONTAINING 30 SQUARE MILES OF LAND AND ABOUT 104,500 PEOPLE. THERE ARE ONLY 1,300 ACRES OF UNDEVELOPED LAND REMAINING, AND MOST OF THAT IS LAND

WHICH ALREADY HAS BEEN COMMITTED TO HOUSING OR INDUSTRIAL DEVELOPMENT. FUTURE EXPANSION IS NOT POSSIBLE BECAUSE PORTSMOUTH IS SURROUNDED ON ALL SIDES BY WATER OR BY OTHER INCORPORATED MUNICIPALITIES.

PORTSMOUTH'S ECONOMIC LIFE HAS BEEN, AND CONTINUES TO BE, DOMINATED BY THE FEDERAL PRESENCE. FOUR LARGE MILITARY INSTALLATIONS OCCUPY OVER 2,000 ACRES OF THE CITY'S TOTAL LAND AREA OF 29,141 ACRES. ANOTHER 2,560 ACRES IS CONTAINED IN THE CRANEY ISLAND LANDFILL, OPERATED BY THE ARMY CORPS OF ENGINEERS TO STORE DREDGE MATERIAL COLLECTED FROM THE AREA'S SHIPPING CHANNELS. TOGETHER THEY CONSTITUTE OVER 14 PERCENT OF THE TOTAL LAND AREA IN THE CITY.

MUCH MORE SIGNIFICANT THAN THE PURE SIZE OF THE LAND HOLDINGS IS THE VALUE OF THESE PROPERTIES. WITH THE EXCEPTION OF SOME 70 ACRES FOR TWO NAVY HOUSING PROJECTS, ALL OF THE GOVERNMENT INSTALLATIONS ARE LOCATED ON PRIME INDUSTRIAL WATERFRONT SITES, LAND WHICH IS AMONG THE MOST VALUABLE IN THE ENTIRE CITY. ACCORDING TO THE MOST RECENT ESTIMATE BY THE PORTSMOUTH CITY ASSESSOR (WHO, BY THE WAY WAS USING AN OFFICIAL INVENTORY FROM THE DEPARTMENT OF THE NAVY), THESE FEDERAL PROPERTIES ARE VALUED AT OVER $1.7 BILLION. THIS AMOUNT REPRESENTS 53 PERCENT OF THE CITY'S $3.3 BILLION REAL PROPERTY TAX BASE.

IF THE CITY WERE ABLE TO ADD THE SHIPYARD, THE COAST GUARD BASE AND OTHER TAX-EXEMPT FEDERAL FACILITIES TO ITS REAL PROPERTY TAX ROLLS, THE INCREASED TAX YIELD WOULD BE ALMOST $24 MILLION THIS YEAR BASED ON THE CURRENT TAX RATE. THAT AMOUNT WOULD MORE THAN DOUBLE OUR CURRENT TAX REVENUES FROM REAL PROPERTY.

PILOT IS TAX-EQUITY

I WANT TO MAKE IT CLEAR THAT THE CITY OF PORTSMOUTH DOES NOT WANT TO BE "BAILED OUT" BY THE FEDERAL GOVERNMENT. INSTEAD, WE VERY MUCH DESIRE TAX EQUITY AND THE ABILITY TO FULLY USE OUR TRADITIONAL TAX BASE. WE BELIEVE THAT LOCAL GOVERNMENTS SHOULD BE ABLE TO TREAT ALL PROPERTY OWNERS ALIKE.

WE ALSO BELIEVE THAT THE FULL BURDEN OF SUPPORTING THE NATIONAL DEFENSE SHOULD BE SHARED EQUALLY BY ALL AMERICANS. CITIES LIKE PORTSMOUTH SHOULD NOT BE EXPECTED TO SUBSIDIZE FEDERAL PROPERTIES BEYOND A "REASONABLE" LIMIT. AND I SUBMIT TO YOU THAT $24 MILLION IN LOST TAX REVENUES FOR A CITY OF OUR SIZE IS NOT "REASONABLE." IT MEANS WE OPERATE FROM A VERY NARROW TAX BASE AND PLACE A HEAVY BURDEN ON OUR CITIZENS.

PILOT LEGISLATION

THE PORTSMOUTH CASE OFFERS SUBSTANTIAL EVIDENCE THAT A COMPREHENSIVE APPROACH IS NEEDED TO THE FISCAL DISPARITIES CAUSED BY TAX-EXEMPT FEDERAL PROPERTY. NO MATTER WHAT LEGISLATION IS ADOPTED, IT SHOULD HAVE SEVERAL KEY FEATURES.

(1) LOCALITIES SHOULD BE COMPENSATED FOR LOST TAX REVENUES, NOT REIMBURSED FOR THE COST OF DIRECT SERVICES TO GOVERNMENT INSTALLATIONS.

(2) PAYMENTS IN LIEU OF TAXES SHOULD BE ELIGIBLE TO FUND GENERAL MUNICIPAL PURPOSES, NOT JUST SELECTED CATEGORIES OF PROGRAMS OR CONSUMER GROUPS.

(3) THE PROGRAM SHOULD BE EASILY ADMINISTERED AND REQUIRE A MINIMUM OF BUREAUCRATIC RED TAPE.

(4) THE AMOUNT OF PAYMENTS SHOULD BE PREDICTABLE FROM ONE YEAR TO THE NEXT SO THAT LOCALITIES CAN PLAN AHEAD WITH A RELATIVE DEGREE OF CERTAINTY THAT ITS REVENUES FROM THIS SOURCE WILL NOT SHIFT DRAMATICALLY.

SUMMARY

WE REALIZE THAT YOU WILL FACE A NUMBER OF OBSTACLES IN CREATING A PAYMENTS IN LIEU OF TAXES PROGRAM. HOWEVER, DURING THIS PERIOD OF INCREASED INTEREST IN MAKING THE FEDERAL SYSTEM AS WORKABLE AS POSSIBLE, IT IS TIME TO ADDRESS THE ISSUE HEAD-ON AND TO DEVELOP A PROGRAM OF PAYMENTS IN LIEU OF TAXES. THEN PORTSMOUTH AND CITIES LIKE IT COULD SOLVE MORE OF THEIR PROBLEMS WITH ESSENTIALLY LOCAL SOURCES OF REVENUES.

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REMARKS BY MAYOR J. E. JOHANSEN
ON PAYMENT IN LIEU OF TAXES
BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
UNITED STATES SENATE

I WANT TO SPEAK TO YOU TODAY ON A SUBJECT OF VITAL IMPORTANCE TO THE CITY OF PORTSMOUTH, VIRGINIA, AND TO MANY OTHER COMMUNITIES THROUGHOUT THE COUNTRY. THAT SUBJECT IS THE IMPACT OF FEDERAL FACILITIES ON A LOCALITY AND THE NEED FOR A PROGRAM OF PAYMENT IN LIEU OF TAXES.

THE FEDERAL GOVERNMENT HAS EXTENSIVE LAND AND PHYSICAL IMPROVEMENTS HOLDINGS THROUGHOUT THE NATION. WHILE THE CONCENTRATION OF THIS OWNERSHIP VARIES WIDELY, IN SOME COMMUNITIES THE FEDERAL GOVERNMENT MAY BE THE DOMINANT LANDHOLDER. WITH FEW EXCEPTION, HOWEVER, NO TAX OR TAX EQUIVALENCY PAYMENTS ARE MADE TO THE COMMUNITIES IN WHICH THIS LAND IS LOCATED AND IN SOME CASES, THIS CREATES A HARDSHIP ON THE HOST COMMUNITY.

FOR BACKGROUND INFORMATION, I WANT TO ACQUAINT YOU WITH SOME FACTS ABOUT PORTSMOUTH, AND HOW THEY RELATE TO PAYMENTS IN LIEU.

PORTSMOUTH IS AN OLDER SEAPORT CITY SETTLED IN 1752 AND INCORPORATED IN 1858. THE CITY HAS BEEN ASSOCIATED WITH THE SHIPBUILDING AND SHIP REPAIRING INDUSTRY AND WITH OTHER MARITIME ACTIVITIES SINCE ITS EARLIEST DAYS. THE NORFOLK NAVAL SHIPYARD, OLDEST IN THE NATION, WAS ESTABLISHED ON THE OUTSKIRTS OF PORTSMOUTH IN 1767, JUST 15 YEARS AFTER THE CITY WAS SETTLED.

THE CITY CONTAINS 30 SQUARE MILES OF LAND AND ABOUT 104,500 PEOPLE. FUTURE GROWTH IN THIS AREA IS NOT POSSIBLE, BECAUSE PORTSMOUTH IS SURROUNDED ON ALL SIDES BY WATER OR BY OTHER INCORPORATED MUNICIPALITIES. OUR SMALL LAND AREA COMPARES WITH NEIGHBORING VIRGINIA BEACH'S 255 SQUARE MILES AND CHESAPEAKE'S 353 SQUARE MILES. IN 1970, PORTSMOUTH'S POPULATION DENSITY WAS 3,711 PERSONS PER SQUARE MILE. THE COMPARABLE FIGURES FOR VIRGINIA BEACH AND CHESAPEAKE ARE 675 AND 254.

I QUOTE THESE STATISTICS ONLY TO POINT OUT TO YOU THAT PORTSMOUTH IS A COMPACT, DENSELY DEVELOPED COMMUNITY. THERE ARE ONLY 1,300 ACRES OF UNDEVELOPED LAND REMAINING, AND MOST OF THAT IS LAND WHICH HAS ALREADY BEEN COMMITTED TO HOUSING OR INDUSTRIAL DEVELOPMENT OR REDEVELOPMENT. THE REMAINING VACANT LAND CONSISTS MAINLY OF SMALL SCATTERED INDIVIDUAL LOTS. THUS, NOT ONLY IS GROWTH IN LAND AREA BARRED, BUT GROWTH WITHIN THE EXISTING CITY LIMITS IS SEVERELY LIMITED.

PORTSMOUTH IS A TYPICAL CORE CITY WITH ALL THE ATTENDANT PROBLEMS ASSOCIATED WITH SUCH CITIES NATIONWIDE.

THESE PROBLEMS INCLUDE A LIMITED TAX BASE AND A POOR POPULATION. THE 1970 CENSUS SHOWS PORTSMOUTH TO HAVE A LARGER PERCENTAGE OF PERSONS LIVING IN POVERTY, FEWER HIGH SCHOOL GRADUATES, HIGHER UNEMPLOYMENT, LOWER HOUSING VALUES, ETC., THAN ANY OTHER CITY IN THE TIDEWATER, VIRGINIA REGION.

IT IS WELL KNOWN THAT MANY CORE CITIES ARE TRAPPED IN A VICIOUS CYCLE WHEREBY OUR CITIZENS HAVE GREATER NEED FOR PUBLIC SERVICES BUT ARE LESS ABLE TO PAY FOR THEM THAN MORE AFFLUENT COMMUNITIES. FOR EXAMPLE, AT THE TIME OF THE 1970 CENSUS, WE

ALREADY HAD THE HIGHEST PERCENTAGE OF PERSONS OVER 65 OF ANY TIDEWATER CITY. THE PERCENTAGE HAS GROWN SINCE THEN. AS THIS PERCENTAGE INCREASES, SO DOES THE NEED FOR SERVICES TO MEET THE SPECIAL NEEDS OF THE ELDERLY. THE SAME IS TRUE OF OUR MANY OTHER ECONOMICALLY DISADVANTAGED CITIZENS. NEEDLESS TO SAY, NEITHER OF THESE SECTORS PAYS SUFFICIENT TAXES FOR THE LEVEL OF SERVICES - RECEIVED.

THESE FACTS, ALONG WITH THE TREMENDOUS INFLATIONARY PRESSURES OF MOST OF THE 1970'S, HAVE MADE IT EXTREMELY DIFFICULT FOR PORTSMOUTH TO CONTINUE TO PROVIDE SERVICES ITS CITIZENS NEED.

THIS IS NOT TO SAY THAT WE HAVE STOOD IDLY BY AND HELPLESSLY WATCHED THESE DEVELOPMENTS. WE HAVE UNDERTAKEN AN AMBITIOUS PROGRAM OF RENEWAL, CONSERVATION, AND INDUSTRIAL DIVERSIFICATION DESIGNED TO INSURE THAT PORTSMOUTH REMAINS A VIABLE, FORWARD LOOKING COMMUNITY. WITHOUT GOING INTO DETAIL, I WILL JUST POINT OUT THAT MOST OF OUR COMMUNITY DEVELOPMENT FUNDS HAVE GONE TOWARD REBUILDING TWO OF THE MOST BLIGHTED COMMUNITIES IN THE CITY, PRIMARILY FOR THEIR RESIDENTS. WE HAVE INDUCED PRIVATE DEVELOPERS TO BUILD ATTRACTIVE HOUSING ON OUR DOWNTOWN WATERFRONT TO REVERSE THE MIGRATION OF MIDDLE AND UPPER INCOME RESIDENTS TO NEIGHBORING SUBURBAN COMMUNITIES. AND, WE HAVE SUPPORTED EFFORTS TO BUILD A $650 MILLION OIL REFINERY IN PORTSMOUTH, THE LARGEST SINGLE CAPITAL INVESTMENT EVER PROPOSED IN VIRGINIA. ALL THESE PROJECTS, TO THE EXTENT THAY ARE SUCCESSFUL, WILL HAVE THE SALUTARY EFFECT OF EXPANDING OUR LIMITED TAX BASE, WITH A CONSEQUENT EASING OF THE FINANCIAL BURDEN OF PROVIDING SERVICES TO OUR CITIZENS WHO ARE IN NEED.

HOWEVER, THERE ARE CERTAIN FACTORS OVER WHICH THE CITY HAS LITTLE CONTROL, AND WHICH GREATLY AFFECT THE DEMAND FOR SERVICES,

AS WELL AS ITS ABILITY TO PROVIDE THOSE SERVICES.

AS PREVIOUSLY NOTED, PORTSMOUTH'S ECONOMIC LIFE HAS BEEN AND CONTINUES TO BE, DOMINATED BY THE FEDERAL, AND MORE SPECIFICALLY, THE NAVAL PRESENCE. AT THE BEGINNING OF 1981, THE AVERAGE SIZE OF THE LABOR FORCE RESIDING IN PORTSMOUTH WAS 51,000. IN THE SAME YEAR, THERE WERE 2,167 NAVY PERSONNEL WORKING AT THE NAVAL HOSPITAL, 650 AT THE NAVAL SHIPYARD, AND BETWEEN 5,000 AND 15,000 ATTACHED TO SHIPS UNDER REPAIR, DEPENDING ON THE NUMBER OF VESSELS AT THE YARD. ADDITIONALLY, THE HOSPITAL EMPLOYED 1,060 CIVILIANS AND THE SHIPYARD EMPLOYED 12,285 CIVILIANS. WITHOUT BURDENING YOU WITH A COLLECTION OF STATISTICS, IT IS OBVIOUS THAT THE NAVAL COMPLEX IN PORTSMOUTH IS THE MAJOR EMPLOYER, AND AN EXTREMELY IMPORTANT ECONOMIC INFLUENCE. THESE FIGURES DO NOT INCLUDE THE HUNDREDS OF OTHER EMPLOYEES AT THE COAST GUARD BASE, FEDERAL BUILDING, AND OTHER SMALLER FACILITIES LOCATED IN THE CITY.

IT SHOULD BE NOTED THAT MANY OF THE FEDERAL EMPLOYEES DO NOT LIVE IN PORTSMOUTH. AT THE SHIPYARD, FOR EXAMPLE, ONLY ABOUT ONE THIRD OF THE ALMOST 12,000 EMPLOYEES RESIDE WITHIN THE CITY LIMITES. THUS, MUCH OF THE POTENTIAL ECONOMIC IMPACT OF WAGES AND SALARIES IS NEVER SPENT IN PROTSMOUTH.

HOWEVER, PORTSMOUTH MUST PAY FOR SERVICES NEEDED BY THE SHIPYARD AND ITS MORE THAN 25,000 COMMUTERS. THESE SERVICES INCLUDE SEWER, POLICE, FIRE, MASS TRANSPORTATION AND OTHER MUNICIPAL SERVICES TO THE NAVY AND ITS DEPENDENTS.

I HAVE ALREADY MADE REFERENCE TO THE FACT THAT PORTSMOUTH'S LAND AREA IS QUITE SMALL COMPARED TO THE OTHER TIDEWATER LOCALITIES. EXACERBATING THIS DIFFICULTY IS THE HIGH PERCENTAGE OF LAND HELD

BY TAX EXEMPT ENTITIES, PARTICULARLY THE FEDERAL GOVERNMENT.

PORTSMOUTH'S CORPORATE LIMITS INCLUDE 29,141 ACRES (45.5 SQUARE MILES) OF WHICH 19,181 ACRES (29.9 SQUARE MILES) ARE LAND AREA. TOTAL NAVY LAND HOLDINGS ARE 1,840 ACRES, COMPRISING THE NAVAL SHIPYARD, CRANEY ISLAND FUEL DEPOT, NAVAL HOSPITAL, AND NEW GOSPORT AND STANLEY COURT HOUSING. THE COAST GUARD BASE IS AN ADDITIONAL 187 ACRES. THE TOTAL 2,027 ACRES IS 11% OF THE CITY'S LAND AREA.

IN ADDITION TO THESE HOLDINGS IS THE CRANEY ISLAND LANDFILL, OPERATED BY THE ARMY CORPS OF ENGINEERS TO STORE DREDGE MATERIAL COLLECTED FROM THE AREA'S SHIPPING CHANNELS. THE TOTAL SITE, INCLUDING WATER, IS 6,900 ACRES, OF WHICH ABOUT 2,560 IS FILL AREA. THE CITY HAS WORKED EXTENSIVELY IN RECENT YEARS TO SECURE TITLE TO THE LANDFILL WHEN THE ARMY FINISHES ITS WORK THERE. THE LAND GAINED BY THE CITY COULD BE USED TO FURTHER HELP ITS INDUSTRIAL DIVERSIFICATION PROGRAM AIMED AT INCREASING THE TAX BASE, JOBS, AND PUBLIC SERVICES.

ELEVEN PERCENT OF ANY COMMUNITY'S CORPORATE AREA IS A SIGNIFICANT HOLDING, PARTICULARLY IN A CITY LIKE PORTSMOUTH WHERE LAND IS AT A PREMIUM. EVEN MORE SIGNIFICANT, HOWEVER, IS THE LOCATION OF THIS LAND. WITH THE EXCEPTION OF THE 70 ACRES COMPRISING THE TWO NAVY HOUSING PROJECTS, ALL OF THE GOVERNMENT HOLDINGS ARE ON WATERFRONT LAND, CONSTITUTING 65% OF THE CITY'S PRIME INDUSTRIAL PROPERTY. THIS LAND IS AMONG THE MOST VALUABLE IN THE ENTIRE CITY, ESPECIALLY CONSIDERING THE PORT AND PORT RELATED ACTIVITIES WHICH CONTRIBUTE SO HEAVILY TO PORTSMOUTH"S ECONOMY, AND THE ATTEMPTS BY THE CITY TO EXPAND ITS TAX BASE.

IT IS WHEN ONE EXAMINES THE VALUE OF TAX-EXEMPT PROPERTY IN PORTSMOUTH, HOWEVER, THAT THE REAL IMPACT OF THE FEDERAL PRESENCE BECOMES APPARENT. TOTAL TAXABLE VALUE OF ALL LAND AND IMPROVEMENTS IN PORTSMOUTH IS $3.3 BILLION. OVER $2.0 BILLION, OR 60.2% OF THIS IS TAX-EXEMPT OR TAX IMMUNE. ALMOST 88% OF THE TAX-EXEMPT OR TAX IMMUNE PROPERTY IS OWNED BY THE FEDERAL GOVERNMENT. THAT AMOUNT IS $1.77 BILLION IN REAL PROPERTY.

THE RATIO OF TAX-EXEMPT AND IMMUNE PROPERTY IS COMPARABLE TO THAT OF WASHINGTON, D.C., WHERE THE FEDERAL PRESENCE IS, Of COURSE, BETTER KNOWN. IN THE DISTRICT OF COLUMBIA, FEDERALLY OWNED PROPERTY EQUALS ABOUT 36% OF THE TOTAL ASSESSED VALUE OF LAND AND IMPROVEMENTS. THE COMPARABLE FIGURE IN PORTSMOUTH IS 53%.

IF PORTSMOUTH WERE ALLOWED TO TAX FEDERALLY OWNED REAL PROPERTY AT ITS CURRENT RATE OF $1.35 PER HUNDRED DOLLARS OF VALUATION (WHICH BY THE WAY IS THE HIGHEST RATE OF ALL THE TIDEWATER CITIES), APPROXIMATELY $23,850,000 WOULD BE RECEIVED BY THE CITY THIS YEAR. AS A POINT OF COMPARISON, THAT AMOUNT WOULD DOUBLE THE REVENUES WHICH THE CITY NOW RECEIVES FROM GENERAL PROPERTY TAXES AND WOULD INCREASE THE GENERAL FUND BY ABOUT 31%. FOR THE CURRENT FISCAL YEAR, THE ONLY COMPENSATION WE WILL RECEIVE FROM THE FEDERAL GOVERNMENT IS AN ESTIMATED $801,000 IN SCHOOL-IMPACT AIDE. THAT WILL CONSTITUTE ONLY 2.3% OF THE SCHOOL BUDGET AND A MERE 1.0% OF THE TOTAL GENERAL FUND.

REAL PROPERTY IS NOT THE ONLY SOURCE OF TAX IMMUNITY WHICH ADVERSELY AFFECTS OUR REVENUES. PLANT EQUIPMENT AND MACHINERY

NORMALLY WOULD BE SUBJECT TO PERSONAL PROPERTY TAX LEVIES. IN ADDITION, MANY MILLIONS OF DOLLARS WORTH OF RETAIL SALES TAKE PLACE AT THE SHIPYARD EVERY YEAR, DENYING PORTSMOUTH THE REVENUES FROM BUSINESS LICENSES AND SALES TAXES THAT WOULD BE GENERATED IF THESE FACILITIES WERE FULLY INTEGRATED INTO THE LOCAL ECONOMY. STILL, PORTSMOUTH, LIKE MOST OTHER LOCALITIES THROUGHOUT THE COUNTRY, COUNTS ON THE PROPERTY TAX AS THE MAINSTAY OF ITS LOCAL OR "OWN SOURCE" OF REVENUES. BY ITS NATURE IT IS A SOURCE OF GENERAL REVENUE NOT LINKED WITH THE FUNDING OF SPECIFIC SERVICES OR BENEFITS TO A PARTICULAR CLASS OF TAXPAYERS. IN THE TRUEST SENSE, IT IS A TAX FOR THE PUBLIC OR COMMUNITY GOOD.

WE BELIEVE THAT THERE ARE TWO CENTRAL ISSUES FROM THE LOCAL PERSPECTIVE. THE FIRST OF THESE IS THAT THE TRADITIONAL DIVISION OF SERVICE RESPONSIBILITIES AND SOURCES OF REVENUE BETWEEN THE THREE LEVELS OF GOVERNMENT IN THE FEDERAL SYSTEM SHOULD BE MADE TO WORK MORE EFFECTIVELY. AS A MUNICIPALITY, WE RECOGNIZE THAT WE HAVE AN OBLIGATION TO PROVIDE FOR PUBLIC SAFETY, EDUCATION, RECREATION AND OTHER LIKE SERVICES. WE ALSO ARE HEAVILY DEPENDENT ON THE PROPERTY TAX, AND, IF A COMMUNITY IS TO PROVIDE ADEQUATELY FOR THE GENERAL WELFARE, ITS TAX BASE SHOULD NOT BE UNDUELY CONSTRICTED BY THE PRESENCE OF TAX-EXEMPT FEDERAL PROPERTY.

THE OTHER ISSUE IS ONE OF EQUITY TO TAX PAYERS. PRIVATE INDUSTRIES RECEIVE ESSENTIALLY THE SAME TYPES AND LEVELS OF PUBLIC SERVICE AS DO FEDERAL INSTALLATIONS. YET ONLY ONE IS REQUIRED TO FOOT THE BILL. EVEN MORE IMPORTANT, THE PORTSMOUTH TAX PAYER - MANY OF WHOM ARE AMONG THE NATION'S POOREST - ARE ASKED TO PAY A

DISPROPORTIONATE SHARE OF THE NATIONAL DEFENSE BY SUBSIDIZING FEDERAL ACTIVITIES IN THE CITY THROUGH THEIR PROPERTY TAXES. IT SEEMS UNFAIR TO ASK 105,000 OF THIS COUNTRY'S 230 MILLION CITIZENS TO SUPPORT $1.8 BILLION OF THE FEDERAL GOVERNMENT'S $210 BILLION IN NON-OPEN SPACE LAND.

THE EXISTING SYSTEM ALSO IS INEQUITABLE IN THAT SOME LOCALITIES ARE COMPENSATED FOR NON-TAXABLE FEDERAL PROPERTY WHILE OTHERS ARE NOT. AS THE RECENT STUDY BY THE ADVISORY COMMISSION ON INTER-GOVERNMENTAL RELATIONS POINTS OUT, THERE ARE 57 EXISTING AD HOC FEDERAL PAYMENT PROGRAMS. THE PRESUMPTION IN EACH OF THESE PROGRAMS IS THAT FEDERAL OWNERSHIP CREATES ADVERSE IMPACTS ON LOCAL REVENUES AND/OR SERVICES AND THAT THE FEDERAL GOVERNMENT HAS AN OBLIGATION TO OFFSET THOSE EFFECTS. PORTSMOUTH RECEIVES THE BENEFITS FROM ONLY ONE OF THOSE PROGRAMS AND THAT IS LESS THAN 4% OF WHAT WOULD BE PAID IF THE PROPERTY WERE NOT TAX EXEMPT.

THE PORTSMOUTH CASE OFFERS SUBSTANTIAL EVIDENCE THAT A COMPREHENSIVE APPROACH TO THIS PROBLEM IS NEEDED. FURTHERMORE, IT SHOULD HAVE SEVERAL KEY FEATURES. FIRST, ANY PAYMENTS PROGRAM SHOULD BE BASED ON THE EXISTING TRI-PARTITE FEDERAL FISCAL SYSTEM. LOCALITIES SHOULD BE COMPENSATED FOR LOST REVENUE, NOT SIMPLY GIVEN A PAYMENT FOR DIRECT SERVICES. SECOND, PAYMENTS SHOULD SUPPORT THE WIDE RANGE OF LOCAL PUBLIC SERVICES, NOT JUST ONE CATEGORY OR ANOTHER. THIRD, THE PROGRAM SHOULD BE EASILY ADMINISTERED AND REQUIRE A MINIMUM OF BUREACRATIC OVERHEAD. FINALLY, THE AMOUNT OF PAYMENTS SHOULD BE PREDICTABLE FROM YEAR TO YEAR SO THAT LOCALITIES CAN PLAN AHEAD WITH A RELATIVE DEGREE OF CERTAINTY THAT ITS REVENUES WON'T SHIFT DRAMATICALLY.

WE REALIZE THAT YOU WILL FACE A NUMBER OF OBSTACLES IN CREATING SUCH A PROGRAM; COST IS THE MOST OBVIOUS OF THESE. HOWEVER, DURING THIS PERIOD OF INCREASED INTEREST IN MAKING THE FEDERAL SYSTEM AS WORKABLE AS POSSIBLE, IT IS TIME TO ADDRESS THE ISSUE HEAD-ON AND TO DEVELOP A PROGRAM OF PAYMENTS IN LIEU OF TAXES. THEN PORTSMOUTH AND CITIES LIKE IT COULD SOLVE MORE OF THEIR PROBLEMS WITH ESSENTIALLY LOCAL SOURCES OF REVENUES.

Senator DURENBERGER. I believe Congressman Ottinger is here now.

Dick, thank you very much for being here. We welcome your testimony.

TESTIMONY OF HON. RICHARD OTTINGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Representative OTTINGER. I appreciate the opportunity to appear this morning to address the issue of payments in lieu of taxes. I certainly commend the subcommittee for holding these hearings. It is long overdue that we establish a system by which the Federal Government equitably compensates local, county, and State governments for revenue losses due to federally tax-exempted properties and other Federal activities. Such properties, whether owned by the Federal Government, foreign representatives, or international organizations, represent serious drains on the fiscal and economic bases of communities throughout the country, including many in my own district.

A number of bills have been submitted to Congress which address the various aspects encompassed by this issue. But I believe the most critical aspect of this problem is that we establish a uniform system that is equally responsive to the needs of all areas of the country, not just a selected few, as currently happens.

For example, the Federal Government has had a policy of compensating primarily Western States in the amount of millions of dollars for vast holdings of tax-exempt public lands. At the same time, the Federal Government has failed to compensate other areas of the country in which are located tax-exempt Federal buildings and installations, and properties owned by foreign representatives and international organizations. This is an unjust policy and ought to be changed.

In the House, I am a cosponsor of H.R. 368, the Real Property Tax Compensation Act of 1981, which deals with just one aspect of this problem. This is a bipartisan measure, introduced by Congressman Norman Lent, Congressman Hamilton Fish, and myself—we are all from New York—which would provide needed relief for communities which are financially burdened with a great number of tax-exempt properties owned by international organizations and foreign representatives living in the United States. The savings so achieved could be passed on to local taxpayers.

With the United Nations building located in New York City, the New York metropolitan area has become the principal place of residence for foreign embassies and delegates working at the United Nations and other international organizations. Of course, there are a great many foreign consulates in New York as well.

Due to our country's role as host to those foreign representatives and international organizations, bilateral and multilateral treaties to which the United States is a party have evolved which grant certain foreign governments exemption from property taxation and exemption of their representatives as well. These are both desirable and necessary but should not be at the expense of the local taxpayers who must carry the burden of financing municipal and school district services for their tax-exempt neighbors.

This problem was brought to my attention by the city of New Rochelle, N.Y., which due to its location in Westchester County, only 15 miles from New York City, contains 23 such tax-exempt, foreign-owned properties. The total assessed evaluation of these lands is $943,050, which represents a rather significant portion of New Rochelle's total assessed evaluation. If taxes were being levied on these properties, New Rochelle would receive an additional $41,216 in municipal taxes and the school district would receive an additional $68,334, for a total revenue of $109,550.

Similar losses of potential tax revenue, due to ownership of property by foreign representatives, are being felt in many other communities as well. Eight such properties in Mount Vernon, N.Y., owned by foreign representatives will cost the city $30,400 in lost revenues this year, and the town of Mamaroneck will lose $19,230 because of properties owned by foreign governments exempted from its tax rolls. The village of Pelham gains no tax revenues from $73,550 of assessed property within its borders because of ownership by foreign governments.

H.R. 368 would allow for communities like New Rochelle, Pelham, Mount Vernon, and Mamaroneck to be reimbursed by the Secretary of the Treasury the amount of the real property tax revenue that the community would have received during the previous calendar year had these taxes been collected.

Unlike the situation you were addressing before, where you have military bases with the previous witness, we don't get any benefit from additional financial activity that is appreciable from having these tax-exempt properties in our communities.

State, county, and local governments are heavily dependent upon property taxes for revenue to support local services. The Federal tax exemption of properties owned by foreign representatives and international organizations erodes a significant part of the State/local tax base, placing undue stress on the taxpaying citizens of the jurisdiction.

The present climate of "New Federalism" encourages a return of fiscal responsibility for programs and services from the Federal Government back to the local and State governments. Therefore, compensation for federally tax-exempted lands should be appropriate and consistent with the economic policies of the present administration. If local, county, and State governments are forced to bear more and more of the costs of the economic and social programs that have for the past several decades been borne heavily at the Federal level, then the Federal Government should responsibly repay these government entities for lands within their jurisdictions deemed tax exempt through no action of their own but, rather, by Federal agreement or mandate.

Senator DURENBERGER. Thank you very much, Congressman Ottinger. I take it your position is, very simply, to return preempted tax resources to State and local governments.

Representative OTTINGER. That is the way I look at it. There is no State control over the situation or local control at all. It is an activity that is being undertaken for the benefit of the Federal Government. It seems to me the Federal Government ought to pay local taxes, payments in lieu of taxes, just as any other property

owner would. The State and local governments then undertake the responsibilities of providing the services.

Senator DURENBERGER. Do you have any problem with the immunity doctrine in this regard—our hiding behind it occasionally and stepping out in front of it when we feel like it?

Representative OTTINGER. Well, in this situation, if I understand what you are referring to, the foreign entities are immune by reason of international treaty. We are similarly immune in their countries.

Senator DURENBERGER. We often take the position at the national level, when it is convenient, that we are immune from State taxation as the State government is immune from——

Representative OTTINGER. Oh, I see. I misunderstood your question.

Well, I don't see any great problem there because the Federal Government isn't being taxed by the State and local governments. It is deciding as a matter of national policy that it will make payments in lieu of taxes. It is making that decision. So it is not being subjected to the jurisdiction of local and State authorities. It is deciding that it will make payments to the States on a certain basis, or a local jurisdiction on a certain basis, that seems to be equitable.

Senator DURENBERGER. Thank you very much for being here.

Representative OTTINGER. Thank you for your interest in the subject. If there is any way I can be of help, I would be glad to do so.

Senator DURENBERGER. Thank you very much.

Our final witness this morning is Robert Rafuse, Deputy Under Secretary for State and Local Finance in the Treasury Department.

I appreciate your being here, Bob. I know you got here early. I hope you learned something from the process of listening to everything that went before you.

TESTIMONY OF ROBERT W. RAFUSE, JR., DEPUTY ASSISTANT SECRETARY FOR STATE AND LOCAL FINANCE, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY CHARLES MOHAN, STAFF, DEPARTMENT OF THE TREASURY

Mr. RAFUSE. Senator, I appreciate very much the invitation to appear before you again. I would ask that my full statement be included in the record.

Senator DURENBERGER. The full statement will be made part of the hearing record.

Mr. RAFUSE. I would like to briefly highlight a few points in my prepared testimony.

Before I begin I would like to introduce Charles Mohan of my staff, who is the primary preparer of this testimony. So if I get in trouble, he will be here to bail me out.

But I appreciate this very much. I enjoy this immensely.

The subject of my testimony is the Treasury Department's and the administration's general views on recent proposals for a comprehensive program of Federal payments in lieu of taxes to State and local governments.

I will be up front about it. The administration strongly opposes any program that would increase total Federal payments to State and local governments, including payments in lieu of taxes.

The essential theme of my testimony is that, while PILT proposals are excellent examples of ideas for which a fairly strong case can be made in the abstract, they are ideas for which extremely serious problems arise when an effort is made to translate them into specific public policy.

Considerations of both horizontal equity and economic efficiency argue for the undesirability of the immunity of Federal property from taxation, given the central role of the real property tax in local government finance. However, equity and efficiency considerations are persuasive arguments only in the abstract. In the instant case, they would be conclusive only in an ideal world, one in which, for example, all real property, regardless of ownership, were subject to taxation on an equivalent basis, and other flows of funds, exemptions, and immunities were not major features of our intergovernmental fiscal system.

Unfortunately, we do not live in an ideal world. The world of 1981 is characterized by myriad deviations from the ideal. Let me cite a few of these:

An extraordinarily complex set of exemptions from taxation of numerous types of real property, exemptions that vary significantly from State to State and among localities within particular States;

Many forms of State and local immunities from Federal taxation, including, I might note, one that is in the headlines these days, the exemption from the Federal income tax of State and local interest payments on their debt;

Deductibility from Federal income taxes of a number of types of private tax payments to State and local governments;

The exceptional variety of Federal grants-in-aid payments to State and local governments for purposes ranging from the sublime to the trivial—I won't try to articulate my views of what is sublime and trivial—although I have been asked that several times this mornir.g; and

A complex of more than 50 ad hoc Federal programs that pay as much as $2 billion each year in one form or another of compensation to State and local governments for the immunity of Federal property from taxation.

In a world as complex as this, concepts of equity and efficiency can offer important guidance on the directions of desirable change, but they cannot be presumed to dominate all other considerations. Decisions on the desirability of a comprehensive payments-in-lieu-of-taxes system cannot be reached independently of the overall current state of the intergovernmental fiscal system in the United States.

The equity arguments suggest that the Federal Government should be contributing to the payment of the costs of local and State governments on a par with the contributions of the private sector, as measured by the market value of real property owned, to the extent that real property is the only, or predominant, measure of an appropriate contribution.

However, the Federal Government's current contribution of unrestricted funds to the support of local governments under the revenue sharing program alone—$4.6 billion at the current annual rate—exceeds its potential liability for property taxes, estimated in the ACIR study at $3.7 billion per year.

This point may be made in the most practical terms by asking whether State and local governments, as a group, would swap $3.7 billion in revenue sharing payments and in payments under the panoply of ad hoc compensation programs for termination of the Federal tax immunity for property tax purposes.

Further, would they accept termination of Federal immunity along with termination of their own immunity as manifested in, for example, the deductibility of State and local taxes for Federal tax purposes?

Let me make explicit what has been implicit in my preceding remarks, although I began by making the point. The current budgetary outlook makes a PILT program that would increase total Federal payments to States and localities a moot issue. Only as a substitute for some other program or programs could it receive serious consideration by the administration.

This raises the issue as one of what economists call the differential incidence of Federal property and that of revenue sharing and the other programs that might be under discussion. It raises the question that I have asked earlier as to whether a tradeoff, any of the possible tradeoffs, would be acceptable to the communities involved and how they might react. I am sure that the reactions would be highly diverse in various parts of the country and in various community situations.

The hard reality, unfortunately, is that we do not know how the distribution of Federal real property values compares with the allocation of revenue sharing payments. We could know it, but at this time we don't really know it in any overall sense. Nor do we know how either distribution compares with the overall incidence of Federal aid payments to State and local governments, to say nothing of the incidence of other tax immunities, exemptions, and deductions.

How, then, can we be sure that, from the perspective of some global concept of equity, the adoption of a comprehensive system of in-lieu payments would produce a more equitable distribution of Federal payments to State and local governments than the distribution that exists today?

Moreover, even if we were to agree on the theoretical desirability of a PILT program, such a program would be exceedingly difficult and costly to administer. The magnitude of the problem of evaluating Federal property is staggering. We have Roy Orr's testimony already on record with some figures. In fact, it is on administrative grounds that the comprehensive PILT is most vulnerable to criticism, at least from the Federal Government's point of view.

While much progress has been made in recent decades, many States and localities still have a long way to go in developing practical and acceptable methods of evaluating the value of their own structures and lands, much less those of the Federal Government. State oversight of local property tax administration is not yet adequate, despite major advances in recent decades. The result could

be extensive litigation and appeals, based on major differentials in evaluation within taxing jurisdictions. Substantial assurance of uniform treatment of Federal relative to other properties would be an essential prerequisite for a PILT program. I do not believe such assurance could be provided today in many areas of the country, nor is it likely to be available in the foreseeable future.

In conclusion, Senator, the administration is strongly opposed to a comprehensive Federal PILT program for all of the conceptual, budgetary, and administrative reasons I have discussed.

Thank you. I would be happy to answer any questions.

Senator DURENBERGER. Thank you very much. Apparently coming earlier has done nothing to change your mind about your position. [Laughter.]

I am informed that I have an amendment on the floor right now, so I will ask you just one question and then thank you for your testimony.

I don't think you addressed this even in your full statement. That is, do you see any inconsistencies between the administration's support for payments in lieu of taxes for open lands and its refusal to support payments in lieu of taxes for real property built up, structures and so forth?

That is my sagebrush rebellion question. [Laughter.]

Mr. RAFUSE. It is a good one. [Laughter.]

The programs that involve payments for open lands are a response to a unique set of problems and have resulted in the adoption of public policies that have evolved over many years. I am sure, if we had time to discuss this further, that there are equivalent programs that are unique to urban situations, and circumstances of suburbia and eastern rural areas. I think it is a good illustration of the point that I have made, which is that the current system is a very complex and interrelated system and direct comparisons of two particular programs are ot very meaningful. You have to expand the scope of the discussion to the whole system and look at the treatment that Portsmouth, Va., receives from the Federal Government—taking into consideration its revenue sharing receipts and the value of the Federal property that is there, as well as the value of its immunities. Does that add up to an equitable treatment vis-a-vis the situation that some county in Wyoming may receive, or a county in Utah?

I am trying to slide around the direct question, obviously. But I do think that is the essential thrust of my testimony.

Senator DURENBERGER. Yes. The question is premised on your premise, or the administration's premise, for opposing PILT programs. You do argue for consistency and for taking them in an overall context of the fiscal relationship between the Federal Government and the local governments in particular. I think it is important that, perhaps for the record, you put this seeming inconsistency between the open space PILT program and the other into some justifiable context.

We also have several other questions which I was going to ask you today. I would like to submit them to you in writing.

Mr. RAFUSE. I would be happy to respond to them, Senator.

Senator DURENBERGER. Thank you very much.

Mr. RAFUSE. Thank you for your time.

[Mr. Rafuse's prepared statement and responses to written questions follow:]

TESTIMONY OF ROBERT W. RAFUSE, JR.
DEPUTY ASSISTANT SECRETARY FOR STATE AND LOCAL FINANCE
U.S. DEPARTMENT OF THE TREASURY

BEFORE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
NOVEMBER 4, 1981

Senator Durenberger, it is a pleasure to be here today to discuss Treasury's views on recent proposals for a comprehensive program of Federal payments in lieu of taxes (PILOT) to State and local governments.

The Administration strongly opposes any program that would increase total Federal payments to State and local governments, including payments in lieu of taxes. However, the concept of a comprehensive PILOT has sufficient conceptual merit to warrant further study as a possible substitute for the existing complex of ad hoc PILOT programs, and possibly even as a substitute for other Federal grant-in-aid programs.

The ACIR study mentioned in your letter of August 13, 1981 [Payments in Lieu of Taxes on Federal Real Property, A-90 (September 1981)] is the most thorough and comprehensive treatment of the immunity of Federal real property from State and local taxation that has yet been published. Its attempt to present a balanced view is impressive, and it breaks new ground, particularly with

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respect to the inventory of Federal real property and in its attempt to develop ways of evaluating Federal property.

Considerations of both horizontal equity and economic efficiency argue for the undesirability of the immunity of Federal property from taxation, given the central role of the real property tax in local government finance. These considerations argue for the taxability of all real property, including Federal, State, and all types of private property. They are the same theoretical considerations that argue for the inclusion of all types of consumption expenditures in the base of a sales tax.

However, equity and efficiency considerations are persuasive arguments only in the abstract. In the instant case, they would be conclusive only in an ideal world: one in which, for example, all real property--regardless of ownership--were subject to taxation on an equivalent basis, and other flows of funds, exemptions, and immunities were not major features of our intergovernmental fiscal system. Unfortunately, we do not live in an ideal world.

The world of 1981 is characterized by myriad deviations from the ideal:

-- An extraordinarily complex set of exemptions from taxation of numerous types of real property; exemptions that vary significantly from State to State and locality to locality within States.

-- Many forms of State and local immunities from Federal taxation.

-- Deductibility from Federal income taxes of a number of types of private tax payments to State and local governments.

-- The exceptional variety of Federal grant-in-aid payments to State and local governments for purposes ranging from the sublime to the trivial, including Revenue Sharing and the block grants approved in the Budget Reconciliation Act.

-- A complex of more than 50 ad hoc Federal programs that pay as much as $2 billion each year in one form or another of compensation to State and local governments for the immunity of Federal property from taxation.

In such a world, concepts of equity and efficiency can offer important guidance on the directions of desirable change. But they cannot be presumed to dominate all other considerations. Decisions on the desirability of a comprehensive payment-in-lieu-of-taxes system, or termination of the immunity of Federal property, cannot be reached independently of the overall current state of the intergovernmental fiscal system in the United States.

The equity argument, for example, suggests that the Federal government should be contributing to the payment of the costs of local and State government on a par with the contributions of the private sector, as measured by the market value of real property owned--to the extent that real property is the only or predominant measure of an appropriate contribution. However, the Federal government's current contribution of unrestricted funds to the

support of local governments under the Revenue Sharing Program alone ($4.6 billion in FY 1981) exceeds its potential liability for property taxes (estimated in the ACIR study at $3.7 billion per year).

Nonetheless, the overall magnitude of the Federal contribution cannot obscure the fact that Revenue Sharing is paid only to general-purpose local governments, and not to school districts and other types of special districts that often tax real property within their jurisdiction. Many other discrepancies between the locations of property values and the distribution of Federal-aid payments surely exist. The point may be made in the most practical possible terms, however, by asking whether State and local governments, as a group, would swap $3.7 billion in Revenue Sharing payments and the panoply of ad hoc compensation programs for termination of the Federal tax immunity. Further, would they accept termination of Federal immunity along with termination of their own immunity as manifested in, for example, the deductibility of State and local taxes for Federal tax purposes?

Let me make explicit what has been implicit in my preceding remarks. The current budgetary outlook makes a PILOT program that would increase total Federal payments to States and localities a moot issue. Only as a substitute for some other program or programs could it receive serious consideration by the Administration. This raises the issue of the differential incidence of Federal property and that of Revenue Sharing or some other programs, and whether a trade-off would be acceptable to the affected communities.

The hard reality is that we do not know how the distribution of Federal real property values compares with the allocation of Revenue Sharing payments. Nor do we know how either compares with the overall incidence of Federal aid payments to State and local governments, to say nothing of the incidence of other tax immunities, exemptions, and deductions. How, then, can we be sure that, from the perspective of some global concept of equity, the adoption of a comprehensive system of in-lieu payments would produce a more equitable distribution of Federal payments to State and local governments?

On another practical note, one might ask how--in an age when policy is rarely made out of the sight of the computer printout--the Congress could be expected to approve any of the possible options on the immunity issue in the absence of anything approximating estimates of the distribution of the gains and losses from whatever package of policy changes might be proposed.

Moreover, even if we were to agree on the theoretical desirability of a PILOT, such a program would be exceedingly difficult and costly to administer. The magnitude of the problem of evaluating Federal property is staggering--there are nearly 24,000 installations with over 2.6 billion square feet of floor space. This real property is valued by the ACIR at nearly $280 billion. Even with the contribution the ACIR study makes to developing current-value estimates, major inequities would be likely to result, to the potential detriment of the Federal taxpayer. In fact, it is on administrative grounds that the comprehensive PILOT is most

vulnerable to criticism, at least from the Federal government's point of view.

First, the interrelationships between the Federal government and State and local governments are already complex enough, and a comprehensive PILOT would introduce yet another, exceedingly complex element into the intergovernmental system.

Second, a property tax is based on the value of the property. In the private sector, this assessment is often based on an estimate of the capitalized value of an implicit or explicit stream of earnings. This value is generally a good indicator of a property's market price in the private sector. A comparable stream of earnings generally does not exist in the public sector. Appropriate assessment, either by the Federal government or by local assessors, would generally not be impossible. However, enough problems would remain to plague the assessors--for example, disagreement between Federal, State, and local authorities over the use and best alternative use of various kinds of Federal properties.

Third, while much progress has been made, many States and localities still have a long way to go in developing practical and acceptable methods of evaluating the value of their own structures and land, much less those of the Federal government. State oversight of local property tax administration is not yet adequate, despite major advances in recent decades. The result could be extensive litigation and appeals, based on major differentials in evaluation within taxing jurisdictions. Substantial assurance of

uniform treatment of Federal relative to other properties would be an essential prerequisite for a PILOT program. I do not believe such assurance could be provided today in many, many areas of the country, or is likely to be available in the foreseeable future.

Let me make this point more clearly, because the issue has the strong potential for the abuse of the Federal taxpayer. Would a comprehensive PILOT program mean a separate assessment category for Federal property, or would such property be regarded as commercial and industrial? Historically, State constitutions or statutes have mandated equal assessment and taxation of all types of properties. However, there has been a trend in recent years toward authorization of different tax rates for different types of property. Some States permit such classified property taxes, while others do not. If Federal property were to be "classified," what constraints would be imposed to ensure that the tax rate on Federal property would not be excessive? And, if this conceptual problem could be solved, can we get uniform treatment among States and localities, and within them?

For instance, the 1977 Census of Governments reports that the variation in assessment-to-sales-price ratios within communities remains substantial, notwithstanding major progress in recent decades. In Minnesota, for example, the average variation ranged from a low of 20 percent in Hennipen County to a high of 57 percent in Sherburne County. Thus, in Sherburne County, if it were treated as other property, a Federal installation worth $100,000 could be assessed at $157,000, while a private property with an identical

market value could be assessed at $43,000. The ACIR reports that variation in assessment-to-sales ratios of 15 percent or less of the median ratio is considered "good," because it means that assessment practices are relatively uniform within the jurisdiction.

Assessed property value removed from the tax base also varies greatly--from 0.05 percent in New Jersey to 24.7 percent in Mississippi. This raises a substantial equity question since we are talking about a national program. Federal property is now exempt from the tax base. If it were included, would other currently exempt properties, often major proportions of the potential tax base--as in New York City, Chicago, and Washington--be included? Exemption practices vary widely from community to community. This places a differential burden on taxable property, and if Federal property were taxable, its treatment relative to other properties in jurisdictions should be equal. If all other circumstances were the same, Federal properties would bear an inequitably large share of the tax in communities where larger proportions of the property tax base are exempt.

Clearly, the potential administrative and adjudication problems arising from local assessment of Federal real property must be viewed as both complex and substantial, and almost surely not worth the trouble.

In conclusion, the Administration is strongly is opposed to a comprehensive Federal PILOT program for all of the conceptual, budgetary, and administrative reasons I have discussed. Additional payments in lieu of taxes would be yet another ad hoc, categorical, and partial response to the problem of State and local finance.

RESPONSES TO WRITTEN QUESTIONS

Question 1. You refer to the practical administrative problems that would result. ACIR recommends, however, that the Federal government have final say in any disputes over assessment and so forth. Wouldn't that solve many of the problems you raise?

Answer. Yes, it would solve some of the administrative problems, but not all of them. The imposing conceptual and budgetary problems would remain. Further, as a practical matter, it is difficult to believe that State and local officials would allow the Federal government to be its own court of last resort in such disputes. This would raise the potential for serious inequities *vis-a-vis* other commercial taxpayers. The potential for adjudication would remain substantial.

Question 2. Can you explain the Federal government's inconsistency in making payments in lieu of taxes for open space, but opposing the idea for real property?

Answer. In my statement I have already outlined what Treasury believes are significant conceptual, budgetary, and administrative impediments to a PILOT program for Federal real property. These impediments are somewhat less significant for open space. Payments for open space are already a part of the budget. Further, in many cases they are based on a stream of earnings by the Federal government—timber receipts, for instance—that does not exist for most Federal real property. Beyond that, I agree that the whole area of payments in lieu of taxes is characterized by inconsistency—57 different programs with different objectives, administered by different Federal agencies, subject to different Congressional committees, going to different levels of government, all unrelated to the fiscal condition of the recipient. Treasury would surely welcome any efforts to bring order out of this chaos.

Question 3. Has Treasury done any estimates regarding the extent to which a full tax equivalency PILOT program would overcompensate some areas beyond the actual burden imposed upon the community by the Federal presence?

Answer. Ideally, the objective of the program would be to compensate for the net fiscal cost—if there is one—of the Federal presence. Further, jurisdictions bearing comparable net fiscal costs should be compensated equally. Because we often do not have good measures of net fiscal cost, we use a proxy—the property tax. However, because the property tax is, at best, a rough proxy for the benefits-to-burden calculus, there is surely overcompensation in the case of private property, both residential and commercial, as well as undercompensation. Considerations of equity and economic efficiency argue for a full tax equivalency PILOT for Federal property. Just as in the case of private property, there probably would be overcompensation in some cases and undercompensation in others. Though Treasury has developed no such estimates, the issue can be addressed through fiscal impact analysis. However, as I suggested in my previous answer, this type of analysis is not simple and rarely has been performed in a technically sound manner.

Question 4. Does Treasury have any estimates of the economic benefits Federal real property brings to a locality?

Answer. Measuring such economic benefits requires a full-blown economic and fiscal impact analysis. The Department of the Treasury has done no such analyses. Studies have been performed or commissioned by the General Services Administration, the Department of Health and Human Services, and the Department of Defense with regard to such issues as impact aid, and the opening and closing of military establishments. It should be kept in mind that these are complex analyses that go well beyond such variables as the number of Federal employees, or the amount of Federal salaries.

Question 5. Could you elaborate what it would mean to States if their immunity to Federal taxes were terminated?

Answer. An unambiguous answer to your question requires a definitive statement on what items and activities are now immune, and would therefore be subject to tax. My conversations with legal experts on the immunity doctrine indicate that there is no concensus on this issue. The current PILOT programs are the result of policy decisions to compensate State and local governments for a presumed fiscal burden in specific and narrowly defined circumstances. No one has suggested that we further undo the web of reciprocal immunities among the levels of government, though the interpretation of immunity does change with changing economic and political circumstances—for example, State and local government wages were once immune from Federal taxation.

As I stated in my testimony, the existing system is extremely complex. To attempt any significant changes in one particular area would force us to consider a whole range of consequences in other areas. For instance, as a practical matter, we could hardly argue to end the immunity of State and local bond interest from Federal

taxes without addressing the immunity of Federal bond interest from State and local taxes.

Question 6. We have heard arguments today that the immunity doctrine as laid down in *McCulloch* v. *Maryland* poses no real obstacle to a comprehensive PILOT program. Although I am not convinced of this, let's take it for granted for the sake of my first question. If we take this position on the doctrine for the sake of property taxes, are there other areas of Federal/State relations that this would have ramifications for from Treasury's perspective? Would there follow other claims on the part of State and local governments that the Federal government is not living up to its responsibility?

Answer. The immunity doctrine articulated in *McCulloch* v. *Maryland* need not stand in the way of a comprehensive PILOT program. To some extent, the doctrine has been eroded by the existing open-space PILOT programs. The Federal government could consent to give up more of its immunity. Consent in one area would not necessarily imply consent in another. Thus, while unforeseen consequences may arise from Federal consent to further refinement of the immunity doctrine in the case of real property, careful drafting by the Congress and the Executive to establish the clearest possible legislative intent should limit further Federal liability.

I would like to reemphasize that, while there are arguments for a comprehensive PILOT program, Treasury is opposed for the many conceptual, budgetary, and administrative reasons outlined in my testimony.

Senator DURENBERGER. The hearing will be adjourned.

[Whereupon, at 11:55 a.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF HON. JAMES A. McCLURE, U.S. SENATOR FROM THE STATE OF IDAHO

Mr. Chairman, I first want to compliment you and your subcommittee for holding this series of hearings on several aspects of the important relationship between the federal, state, and local governments. I am here specificially to talk about a program which I feel is of the utmost urgency in this regard that is, of course, the payments-in-lieu-of taxes program; but I cannot keep from mentioning at the outset my strong view that the genius of our system of goverment lies in its unique federalism under which the national, state, and local governments have distinct and separate functions. Recent history has seen a tremendous increase in the size and power of the federal goverment, and we have had a tendency, especially here in Washington, to forget or ignore that the states as states have a legitimate role in our system of federalism. I believe it is incumbent upon us as elected members of the policy making branch of government to recognize this unique federal system, and to do everything we can to keep it healthy and functional.

That is the reason why I am and will continue to be an advocate of the payments-in-lieu program, even during this difficult period of fiscal readjustment. Coincidentally, this hearing has been scheduled to occur at precisely the same time the conference on the FY1982 Interior Appropriations bill is meeting to work out the differences between the House and Senate versions of the bill. I am, therefore, here on borrowed time; but it is appropriate as well, since one of the major issues in disagreement in the Interior Bill is the funding decision which will determine the future of PILT. I am glad to have an opportunity to hone my arguments on the subject, and I thank you for the opportunity to be here.

It is very possible, even probable, that some of my comments and illustrations may have been previously used and no doubt may be used again. Nevertheless, as a longtime supporter of the concepts encompassed by the payments-in-lieu program, I feel that I should reiterate and emphasize

the very important aspects of the task we face.

In my mind are a number of concerns I feel each one of us must answer before we can proceed with the question of the future of PILT.

First we must question the very need for such a program in the first place. How badly does local government need these funds and what alternatives are availabe to the local government units if they are suddenly no longer available?

Secondly, does the federal government have an obligation to fulfill? Is it our legal and moral obligation to provide funds to the local unit of government in this manner? Just as important - since we have provided such payments over the past several years - have we created a legal and moral obligation to continue to do so?

Lastly, is the current program the best we are to offer? Are the alternatives that have been proposed going to solve any of the current problems, or at least outweigh them with additional benefits?

It is my firm belief that when we weigh all these concerns, we cannot help but concur that PILT is a viable, effective program that for a number of reasons must be retained and appropriations provided for.

As most of us are aware, about 760 million acres, or roughly one-third of the United States is federally owned, and in being federally owned is therefore eliminated from each county's tax base.

To complicate the situation, this land is not evenly distributed throughout the country. While all 50 states and some 1,500 counties nationwide have federally owned lands within their boundaries, the bulk of the land is in the western United States. About half of this land is in the State of Alaska. Excluding Alaska, over 90 percent of the land is located in 11 Western states. This reflects a disproportionate burden placed on this area of the country.

Beyond the proportional aspects of the burdens upon states, within states the burden is not evenly disbursed among counties. This imbalance is evident in all fifty states. A number of counties are more federal than private. For example: Hinsdale and Mineral counties in Colorado are

99 percent federally owned. Gila County, Arizona is 97% federally owned. Kane County Utah, 92%; Bath County, Virginia, 60%; Forest County, Pennsylvania is almost 50% federally owned. And those are just a small sampling.

To give you an idea of the size we are talking about, the 9.8% of Florida that is federally owned represents a land mass larger than the State of Delaware. I can not believe anyone can deny that such a situation drastically reduces the counties' tax base.

While counties are denied the benefit of these huge parcels of land in their tax base, they still must finance full local government services on a countywide basis, such as law enforcement, road maintenance, health service, etc.

Replacement of property tax losses as a result of this tax exempt land is of utmost concern to these counties. While the economic benefits of having certain federal lands in the area may be a consideration, the question of the burden to property tax-payers is of an overriding concern. The majority of local governments involved rely heavily on property taxes to pay for the essential services they provide - particulary school funding. In most cases, the school's largest single source of income is the property tax. This is a situation which has not been, nor will it likely be rectified without PILT program.

To further complicate the problems facing the counties, they have a number of other restrictions that limit their ability to find alternative forms of revenue. As you are all aware, a number of counties are severely restricted in the amount of property tax they can levy by recent referendums or initiatives. On top of that, unlike the federal government, counties are required by law to operate with a balanced budget.

In short, the counties have no alternatives to find funding. A cut or recision of PILT can only mean sharp cuts in services provided.

Now we come to the question of the federal obligation in these matters. The report of the Public Land Law Review Commission, on which I served, concluded that:

> If the national interest dictates that land should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of the policy is spread among all the people of the United States and not bourne wholly by those states and governments in whose area the lands are located.
>
> Therefore, the Federal Government should make payments to compensate state and local governments for the tax immunity Federal lands.

I can hardly imagine any opposition to this claim. Surely, we do have an obligation to those governmental entities upon which the additional burden falls.

It is this obligation that PILT has done a significant job of fulfilling. Recision of payments-in-lieu-of taxes would create a situation that I do not hesitate to call morally and legally wrong.

Just as counties with large amounts of private land ownership have come to expect private property tax revenues, counties with large federal land ownership should be assured of similar funding from the owner of that property. The Federal government, and the Congress, must realize that there is a responsibility to local goverments that goes with large land ownership. Without shouldering such a burden, the Federal government is in essence declaring many states and counties as having second-rate status. That is a presumption I thought we rejected two hundred years ago.

Another question of obligation has to be considered in regard to reciprocal services. If the Federal government feels no obligation to make restitution to local goverments for services rendered, there should be no expectation on the part of the Federal government, that local governments will provide any form of service in return. No roads, garbage, and sewage disposal, no rights to use county funded facilities, etc. The actual impact of recision of PILT on services provided federal lands is unknown but it would suffice to say the recision would make federal lands a low priority, if a

priority at all, in the eyes of local government.

Whether you, like I, feel that there is an obligation inherent with federal ownership of land, you must agree that we have developed another obligation simply in the fact that we have initiated an interdependency with local counties with PILT as it has operated since 1976.

By offering an appropriation program of payments to counties, Congress has forged an agreement with those counties. In the short time of PILT's existence, many counties have come to rely heavily on this funding. To breech this contract now would have disastrous effects, particularly since many of these counties' budgeting cycle does not coincide with that of the federal government.

Counties budget for and place PILT payments in the general fund. For example, PILT payements comprise over 50 percent of the general operation expenditures of six counties in New Mexico. Over 40 percent in five other New Mexico counties. Five counties in Utah also rely on PILT for over half of their total operating fund. In Nevada at least five counties look to PILT for 13-23 percent of their operating funds. Recision of PILT is not a matter of cutting into these units of government's budgets - it is literally destroying them.

Altering the PILT program would be somewhat like changing horses in midstream. Recision of PILT would be simple throwing the rider into the raging waters.

I just can't accept the idea that there is no Federal obligation to local governments for tax-exempt Federal land within their boundaries. After all, federal lands are intended for the benefit of the entire nation. It is unfair to ask local governments with federal property to bear more than a fair share of the cost. While it is true that in some cases local governments and the people they serve receive unique benefits from the lands due to their proximity to those lands, for the most part, the lands in question here provide little to the government that is obligated to provide services for that land.

Looking beyond the counties' need for the PILT program

and the Federal government's obligation to supply some payment program, I think it would be fair to assess the political gravity of the situation.

The cry of the local property tax payers has been long and loud in recent years. Careful study shows that the counties and states with the highest percentages of federally owned land have been the centerpoints of some of the most vocal protest. A major reason for this cry is obviously the added burden these people feel they are unfairly strapped with - the burden on them as indivuduals to make up the deficiency in the local tax base as a result of the tax exempt federal land.

A political question is evident in the continuing tension in the so called "Sagebrush Rebellion States". If you are under the impression that such tension has totally eased and is no longer a political consideration, I caution you to look again. The recision of PILT will be considered by there very vocal forces as yet another example of the injustice they claim have been put upon them. I would be inclined to agree with them.

Over the past ten years the nation has suffered through an economic crisis of great magnitude. Not only has the private sector been adversely affected but so too has the public sector. Rapidly rising service costs coupled with sluggish or declining tax bases have meant that State and local governments have had to raise tax rates and/or cut services. Demand for service is more elastic than the availability of revenues to finance them. Thus because of inflation, demand, and other factors, expenditure requirements tend to outpace revenues. This phenomenom is even more acute where the base is so grossly restricted by tax-exempt lands as in many cases here.

On the revenue side, State and local goverments have tended to rely on revenue sources that do not grow as the economy does. This is especially true of local governments which tend to rely very heavily on property tax revenus.

We now must take a look at the choices that face us. It seems that we have at best, three alternatives before us. The first offered by the House is to scrap PILT entirely -

that is the essence of refusing to fund it in FY82. The second is to continue PILT as it stands. The third would be to make some alterations in it, maintaining the basic concepts.

I cannot even address myself to the idea of scrapping the program. The needs are too great. The legal obligations are overwhelming.

When reviewing the current program, which is the foundation of the Senate changes in H.R. 4035, I give attention to the criticisms that have been leveled. Foremost have been the complaints that the program is not equitable or consistent because of the payment methods used. These are the charges leveled by a 1980 report from the General Accounting Office. The GAO goes so far as to claim that many counties are paid more under PILT and other land payment programs than they would receive if the lands were privately held.

First of all, part of the problem with the GAO's report is that they have combined the wide variety of land payment plans in assessing how much is being paid out, but the report does not give the same flexible measure in assessing the tax value of land if it were privately held.

The GAO reported that in 6 western states revenues comparable to property taxes exceeded by $187.3 million the potential property taxes if the land were privately owned. The GAO chose the lowest value of private land in each of the six states - grazing land - and compared this value to all of the federal land. Further, the GAO report valued the BLM Mineral Lease Revenues as comparable to local property taxes - in effect comparing a producing land value with an idle land value.

A close comparison conducted by the National Association of Counties, matching more closely the private lands of similar use with the federally owned lands in those same six western states shows that instead of overpayment to counties, the GAO overstated the revenues comparable to property taxes by more than $150 million. That's a difference of $337.3 million.

Numerous other examples of apparently inequitable comparisons cast a strong shadow of doubt on the validity of charges made by that 1980 GAO report.

In reality, based on the present formula, PILT payments even now do not provide a true tax equivalency. Nationwide, counties only average about 15 cents an acre for the 700 million plus acres under the program.

The Bureau of Land Management which administers the program, estimated that funding would need to be increased by $3 million every year. They estimated that $114 million was necessary for fiscal year 1982, $117 million for fiscal year 1983 and $120 million for fiscal year 1984. As you can see, the program is not really what could be called inflationary with annual increases of less that 3 percent . . . and that was by BLM projections. The Senate has already proposed an even more austere funding level with its $105 million recommended appropriation for 1982.

Some valid criticisms have been leveled at the administration of the program, pointing to the errors in states' reports causing improper payments to be made to certain counties. This, to some degree, has already been remedied by the oversight accommodations in recent legislation.

Some of you may be looking for a compromise position. So far, only one has been offered - S. 1282, which I introduced at the request of the administration. It has so far remained in committee because of a number of problems in the proposed formula that were seen as being too great to warrant substituting it for the current program. The most important flaw in it was that it subtracted PILT money from counties as an offset against other land payments that counties never actually received.

Comparing full FY80 payments with the FY82 proposals of S. 1282 showed that the burden of cuts would be highly irregular and inequitable. States would lose widely varying amounts of funds. Ohio would recieve 92.7 percent less, New Mexico 78.2 percent, and Idaho 52.6 percent. Such cuts would gut programs in these states, while other states would

only suffer minor curtailments.

It seems that if we are to target cuts for the purpose of balancing the federal budget, every attempt should be made to make those cuts an equal burden on all, and not an extra burden on some.

In summary, I must contend that the payements-in-lieu-of taxes program is for the most part a most successful one. It operated with less than a 0.3 percent overhead rate and with a minimum of red tape. The benefits to counties burdened by large amounts of tax exempt land are only sufficient to ease the financial squeeze. I will be the first to admit that PILT is not perfect, but it goes a long way toward helping to provide badly needed services which are a local responsibility.

The most generally recommended method of payment in these matters is that of tax equivalency, but the amount of additional funding that would be necessary for such a program is prohibitive at this time. In all candor, PILT is the bare bones minimum required to maintain some semblance of equity. A recision of PILT as recommended by the House action would go against all of the principles I've addressed today.

The Federal government has a legal and moral obligation in this matter, an obligation that must be met with sufficient appropriations to fund PILT in FY82. I intend to do everything I can to provide those funds.

Thank you.

STATEMENT OF ABE SELDIN, CHAIRMAN, BOARD OF ASSESSORS, NASSAU COUNTY, N.Y.

Mr. Chairman and members of the subcommittee, first, I want to thank you for allowing me to submit a statement on the problem of payments in lieu of taxes which is so crucial to many local governments across the nation and second, to commend you for holding hearings on this important question.

As the elected chairman of the Nassau County Board of Assessors, I am the chief assessing officer for the County of Nassau which has more than 403 thousand parcels, approximately ten percent of all the parcels in the State of New York.

While the ideas behind the bill you are considering today, S. 1282, are important to many areas of the country, I would like to urge you to expand federal payments in lieu of taxes to cover developed tax-exempt installations owned by the federal government as well as tax-exempt property owned by foreign governments, such as diplomatic missions.

Specifically, I would like to urge you to introduce and consider bills similar in concept to H.R. 368 of 1981, sponsored by Rep. Norman F. Lent and H.R. 3314 of 1981, sponsored by Rep. William G. Whitehurst. I wholeheartedly support the Lent bill and have only one reservation about the Whitehurst proposal.

At a time when the federal government is cutting back on many programs of aid to state and local government, it is more important to local governments than ever that the United States

assume its fair share of the cost of services provided by local governments to property owned by the United States and by foreign governments.

While some western states benefit from federal payments in lieu of taxes for largely undeveloped federal lands, developed federal lands use more local-government services. Yet, it is the local taxpayer, rather than the federal government which is asked to foot the bill. And the bill is for services which benefit many people outside the area where local taxpayers are being told they must pay.

Imagine the chaos in the air traffic control system of the United States if fire were to destroy the air traffic control center at Garden City, New York. This center controls much of the airplane traffic in the New York Metropolitan Area. Yet the facility does not pay taxes to the Garden City Fire District for fire protection. Nor does it pay taxes to Nassau County to maintain roads around the facility or provide police protection when striking air traffic controllers stage a massive demonstration there as they did this summer.

Picture, if you will, the international incident which would be caused by a terrorist attack on the Soviet Union's estate in Glen Cove, New York. This compound, on Long Island's fabled "gold coast" serves as a residence for Russian diplomats assigned to the United Nations.

The estate also draws large numbers of demonstrators exercising their constitutionally protected right to free speech.

While these demonstrators are sincere people airing legitimate differences with the Soviet Union, the estate has only one access route and is directly across the street from Glen Cove High School. When the Soviet Union's property attracts thousands of demonstrators at one time, as it sometimes does, the problems of crowd control and access for fire and emergency vehicles to the high school and other properties on that road become enormous.

The communist diplomats, living in capitalist splendor on a palatial waterfront estate, pay no taxes to the City of Glen Cove and pay no taxes to the County of Nassau for services received. That estate is exempt because of its diplomatic use. Yet, while the United States maintains diplomatic relations with the Soviet Union; while the United States is the host nation for the United Nations, only the people of Nassau County and the City of Glen Cove are asked to bear the cost of providing services to this diplomatic property. Therefore, simple justice dictates that all of the citizens of the United States should contribute to the cost of that relationship. Instead, the federal government requires the citizens of Glen Cove and Nassau County to bear this burden without help.

Federally owned property and foreign-government-owned property represent only a small portion of the tax rolls of Nassau County, a little more than $17 million in assessed valuation. However, that exempt property is not evenly distributed throughout the county and small areas, like the City of Glen Cove and the Garden City Fire District are severely impacted by the cost of services they must provide. And, as the few examples I've cited demonstrate, these parcels are often among the largest users of local government services such as police and fire protection.

Based on the assessed value of these parcels, the citizens of Nassau County paid out $5.7 million in property taxes during 1980 to support foreign and federally owned tax-exempt property in our county.

While this situation has been going on for many years, last year alone, it cost each property owner in Nassau County an average of more than $14.00 per parcel. Each of Nassau's 403,596 parcels subsidized foreign and federally owned property through the property tax and $14.00 is, I must emphasize, just an average figure. The true cost to individual homeowners in certain areas of our county is much higher.

Nassau County's representatives in the U.S. Congress, Senators D'Amato and Moynihan and Representatives Lent,

McGrath, Carman and LeBoutillier have been making the point that New York State pays more income tax dollars to the federal government than it receives in return. This is true, but these property tax figures I have just cited add a startling new dimension to the picture.

At a time when the federal government is reducing the amount of aid to local governments, Nassau County and many other local governments across the country find themselves running an aid program for the benefit of the federal government!

If Washington is going to reduce aid to local governments, it is only fair that Congress act to permit local governments to reduce aid to Washington! Nothing less will do!

The Lent bill authorizes payments in lieu of taxes from the federal government to all local taxing jurisdictions for tax-exempt property owned by foreign governments. This is particularly important to the City of Glen Cove and Township of Oyster Bay, where the services these municipalities must provide to property owned by the Soviet Union are a burden local taxpayers are required, by the federal government, to carry for the federal government.

The Whitehurst bill goes further and provides for payments in lieu of taxes on federally owned land as well. Both concepts are long overdue. My one serious reservation about the

Whitehurst bill is that it allows the federal government, through the simple expedient of not appropriating enough money, to avoid paying its fair share of local services.

Every home and business owner in Nassau County, and I'm sure throughout the entire United States, wishes he or she could decide to pay only a percentage of their property tax bill. For most people, that would be a dream come true. Under the Whitehurst bill, if the appropriation passed by both houses of the Congress totals only ten percent of the federal government's total local tax obligation, then each local taxing jurisdiction would get only ten percent of the property tax bill it had submitted.

Under that system, local governments could not make plans based on their anticipated revenues, because they would not be sure from year to year how much money they would receive from the federal government in the form of payments in lieu of taxes. Therefore, I urge you to consider legislation similar to the Whitehurst bill, but without that provision which would enable the federal government to under-fund this program.

These bills are already being considered in the House of Representatives, where the Subcommittee on Intergovernmental Relations and Human Resources, held hearings on the question of payments in lieu of taxes on October 14, 1981.

In conclusion: the idea of payments in lieu of taxes is one which has been established for some time, but one which needs to be expanded to include tax-exempt properties owned by foreign governments and improved federally owned property. Both of these classes of property demand expensive services from local governments. Both impact an area far larger than the area being asked to foot the bill.

I call upon you to take local governments out of the business of providing foreign aid through tax exemptions to property held for diplomatic purposes by foreign governments. You can accomplish this through passage of a bill identical to Representative Lent's bill.

At the same time, I call on you to continue to economize in government through passage of a bill like Representative Whitehurst's bill, but incorporating the one change I have suggested. A bill like that would totally eliminate one federal aid program: the program under which local governments subsidize the federal government through the local property tax--in Nassau's case, to the tune of $5.7 million per year, or more than $14.00 per average parcel.

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STATEMENT OF THE CITY OF SAN DIEGO BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, ON PAYMENTS IN LIEU OF TAXES, NOVEMBER 4, 1981.

Mr. Chairman, the City of San Diego would like to state for the record that it favors proposed legislation calling for the payment in lieu of taxes to local governments by the federal government based upon the amount of certain tax-exempt property owned by the United States and foreign governments within such locality.

As you perhaps know, there are no Constitutional barriers on either the imposition of local taxes on federal real property or the payment of in lieu tax on its properties to a local government. As a matter of fact, payment in lieu of taxes (PILOT) is a long established method for recouping revenues lost due to tax-exempt property. In 1907, Congress authorized the return of 25% of stumpage sale receipts to the counties in which timber was cut to be used for public education and roads. And, in 1981, the House of Representatives approved the payment to state and local governments of 25% of the net receipts from timber harvests on military installations in their jurisdictions. Such in lieu agreements which exist today could be characterized as successful partnership arrangements between the federal government and the local jurisdiction. It would seem therefore, that the enactment of PILOT legislation is a natural evolution to federal participation in the local tax burden for municipal services provided to federal properties.

The City of San Diego believes that the PILOT concept should be acceptable to Congress for two reasons. First, it is the nature of local taxation that its basic own-source tax is on property. While non-property tax sources are contributory to the total tax base available to the local government, its mainstay is the property tax. Therefore, exemption of federal properties from local taxes greatly restricts the tax base.

As an example localities which because of climate or geographic location attract large scale defense or military activities, could have large tracts of taxable property removed from their tax rolls. The purchase of local land at fair market value for national purposes provides only a one-time payment to the community. And certainly this is not just compensation when uncompensated future local government services to federal installations are taken into account.

Secondly, a taxing system should treat all taxpayers (individual and institutional) equally. If this is an acceptable premise, and if it is also acceptable that a local government must rely primarily on its property tax for general revenue purposes, then the exemption of the federal government from the payment of local property taxes would seem to violate public finance equity criteria.

Mr. Chairman, at a time of intense financial strain resulting from years of inflation, taxpayer initiatives and now a slower economy, local governments are desperately searching for new revenue sources. And the exemption of federal and foreign government real estate from local taxes exacerbates this strain. Quite simply, the financing of federal activities is a national, not a local responsibility.

The City of San Diego cannot urge too strongly that your committee approve a bill which will authorize either direct local taxation of federally owned real property or establish a system of federal payments in lieu of taxes based on rates equivalent to those paid by local property owners.

National
Association of
Towns and Townships

STATEMENT ON THE

PAYMENTS IN LIEU OF TAXES PROGRAM

BY THE

NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS

FOR THE RECORD OF

THE HOUSE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

November 1981

The National Association of Towns and Townships (NATaT), which represents the interests of local government officials from over 13,000 predominantly small communities across the country, appreciates the opportunity to comment on the Payments in Lieu of Taxes (PILT) program.

NATaT's perspective derives from the Association's particular awareness of the needs and conflicts of its constituency -- the vast majority of which is composed of local officials from small towns under 10,000 in population.

PILT DISCRIMINATES AGAINST TOWNS

The Payments in Lieu of Taxes Act (PL 94-565) was passed by Congress in 1976 in recognition of the serious adverse impact that the tax exempt status of federal lands was having upon local units of government with such lands within their borders. The impact is especially severe for smaller local governments, such as townships, which have been deprived of tax revenues from these federal lands and which have restricted local revenue resources. However, the manner in which PILT is being administered is discriminatory to townships as a local government entity. The program explicitly excludes towns from participation.

The PILT Act sought to lessen the financial affects on local governments with entitlement lands within their jurisdictions by directing the Secretary of the Interior to make payments to units of government in which such lands are located. Under section 2(d) of the Act, the entitlement payments are to go to the <u>smallest</u> unit of government, as follows:

> In the case of a smaller unit of government, all or part of which is located within another unit of local government, entitlement land which is within the jurisdiction of both such units shall be treated for the purposes of this section as only within the jurisdiction of such smaller unit.

Section I of the Act makes it clear that "'a unit of local government' means county, parish, township, municipality, borough . . ." (emphasis added).

The program has not been administered that way when implemented by the federal government. Thought by conventional, official definitions, townships are units of general government, and are defined by the Bureau of the Census as such, PILT entitlement payments have been handed to the counties, depriving townships of needed and warranted revenues, though the tax exempt federal lands are within their boundaries.

The intent of the PILT law is to relieve the burden of tax exempt lands from units of government and the most logical recipients would be those governments with the smallest tax bases -- which are most often townships -- for they are the hardest hit by having tax exempt lands in their borders. The law has not been carried out equitably in this regard causing serious and untenable revenue-generating pressures on many small localities.

BUDGET CUTS INCREASE NEED FOR PILT

The Office of Management and Budget (OMB) has acknowledged that federal programs for rural localities were cut disproportionately in this year's federal budget-cutting which makes PILT all the more critical to townships, most of which are rural. Townships' limited revenue-raising capabilities

are often severely limited though they provide local government services; small townships often simply cannot afford to provide their citizens with the expensive infrastructure necessary to support a healthy economy. Low population density exacerbates this difficulty of generating sufficient local revenue. Thus, when these localities are deprived of a tax revenue, as is the case when tax exempt federal lands are within a township's borders, the loss is significant.

With the extensive cuts in programs which have helped offset fiscal problems and helped smaller communities provide basic services, rural towns with tax exempt federal land have an even greater need and stake in the PILT program and should receive entitlement payments as called for in the law.

PILT: IN THE SPIRIT OF THE NEW FEDERALISM

The Payments in Lieu of Taxes program serves the principals of Federalism well. With minimal administrative costs, the federal government provides state and local governments with payments to compensate for the loss of revenue due to the presence of tax-exempt federal lands -- revenue to which those governments would have been entitled under normal circumstances. Thus, through the PILT program, the federal government is fulfilling obligations to the states and localities -- PILT is <u>not</u> a grant program, a gift or a loan. It is a program which falls very much in line with the new federalism.

PILT SHOULD BE PRESERVED

In conclusion, NATaT supports a PILT system which provides payments to state and local governments to compensate for the loss of vital revenues

due to tax-exempt lands in their borders. It is a sound principal that meshes well with federalism in its most fundamental sense. PILT is not a grant program with targets and strings and federal inteference, but is an equitable means to ensure that state and local governments are receiving their fair share of revenues.

NATaT's policy supports implementation of the Payments in Lieu of Taxes program the way Congress intended. Entitlement payments should go to the smallest unit of government as the law states -- they are the least able to absorb revenue losses. Today, with the dramatic cuts in federal programs to rural localities, the continuation of the PILT program -- and in an equitable way -- is even more crucial for the health and well-being of hundreds of townships to help enable local officials to continue to provide basic services to their citizens.

NATaT appreciates the opportunity to present this statement for the record of the Subcommittee on Intergovernmental Relations on the Payments in Lieu of Taxes program. The concerns, needs and interests of township officials are critical to the effectiveness and value of the PILT program and members of the NATaT Washington staff will be happy to answer any questions of the subcommittee. Though the specific PILT proposals under consideration by the subcommittee have not been addressed in the statement due to township officials' more pressing concern of equity in the PILT program, NATaT would be glad to provide statements on them or other bills in the future.

91-868 O—82——9

REPORT OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

PAYMENTS IN LIEU OF TAXES ON FEDERAL REAL PROPERTY—IN BRIEF

FOREWORD

One of the most distinctive features of the U.S. system of federalism is the reciprocal intergovernmental tax immunities doctrine. According to this doctrine, which has engendered years of economic and political debate and judicial decisions, all of which have been characterized by heated dissent, state and local governments may not tax the federal establishment and, in turn, the federal government will not tax state and municipal government activities.

If the federal system were being newly designed today, the wisdom of the immunities doctrine would surely be an area for debate. The focus would be primarily on the doctrine's appropriateness as a policy with respect to its effects on revenue productivity, tax equity, efficiency, and fiscal accountability rather than on its original (and outdated) justification as a device to protect the federal government from being hampered in its mission by state or local taxation.

It was these four specific policy concerns of revenue, productivity, equity, efficiency, and accountability that led several members of Congress and the full Commission to request, in the fall of 1978, that the ACIR staff undertake an examination of the major element of the immunities doctrine—the federal government's immunity from state and local real property taxation. Specifically, the Commission asked that the staff study the intergovernmental and other economic implications of the property tax immunity accorded to "non-open space" federal real properties (i.e., all federal real property other than grazing, forest, and park lands for which compensation is already provided) and, in addition, consider whether Congress should enact a uniform payment in lieu of tax (PILOT) program designed to compensate subnational governments for the property tax loss due to the federal presence.

This Report In-Brief is a summary of that study and the Commission's response to the study findings. It was written by Robert D. Ebel and Joan E. Towles, the authors of the full report, "Payments in Lieu of Taxes on Federal Real Property," who worked with the ACIR's Taxation and Finance Section directed by John Shannon.

JAMES G. WATT,
Chairman.
WAYNE F. ANDERSON,
Executive Director.

INTRODUCTION

Statement of the problem

The property tax is the single most important revenue device used by state and local governments, accounting for nearly one-third of the total tax collections in 1980. Although the tax has only a minor impact on state treasuries, it has and will continue to have a central role in maintaining the fiscal integrity of local governments in the United States. At present the property tax accounts for almost 78 percent of local tax collections, a feature which can be largely explained by the fact that, due to tax base accessibility problems, local governments have no better tool for effectively generating revenue sufficient for maintaining their provision of public goods and services.[1] At the same time, however, the property tax is also generating taxpayer discontent as sustained high rates of inflation exacerbate its inherent structural inequities—discontent that may increase if localities are forced to use it more extensively due to the decline in federal aid flows.[2]

One of the most significant issues pertaining to the revenue yields and equity of the property tax is that the country's largest owner of real property, the federal government, claims a tax exemption for nearly all its holdings. The federal government currently owns one-third of the nation's entire land area, 23,988 installations, 2,598 million square feet of floor area, and various other structures and facilities. In 1978, the total value of U.S. real property was approximately $280 billion.

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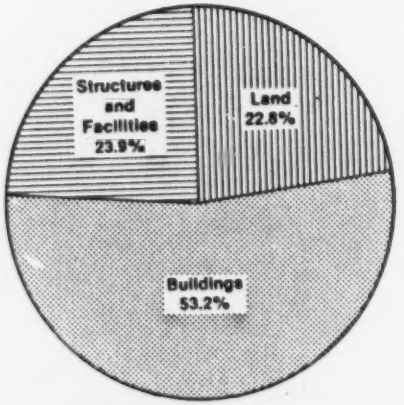
[1] Because they operate in the most "open" of all economies—economies characterized by a high degree of mobility of goods and factor movements across jurisdictional borders—the real property tax base, which is for all practical purposes, physically immovable, is the only one which is really accessible.

[2] ACIR, "Significant Features of Fiscal Federalism, 1979-80 Edition," Report M-123 (Washington, D.C., U.S. Government Printing Office, 1980), Tables 47, 52, 58, and 103.

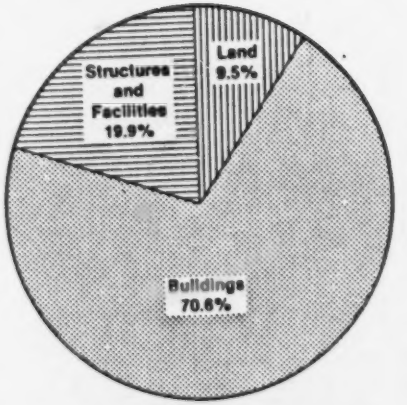
The value and location of this property varies widely across the nation. The properties are located in both rural and urban areas and include office buildings, housing projects, grazing lands, hospitals, defense bases, parks, industrial facilities, utilities, communication systems, airports, museums, and memorials. Although the public perception is often that the bulk of federally owned real property is largely in "open spaces" as represented by national parks, forest reserves, and grazing or timber lands, the reality is that the bulk of the government's property value—$210 billion of the $280 billion or 75 percent of the total value—is accounted for by buildings and structures and facilities located in non-open space areas. (Chart 1)

CHART 1

VALUE OF LAND, BUILDINGS, AND STRUCTURES AND FACILITIES REPRESENTED AS SHARES OF TOTAL FEDERAL REAL PROPERTY VALUE, 1978



All Federally Owned Real Property in the United States*



Federally Owned Real Property in the United States Excluding Certain Usage Categories for "Open Space" Lands**

*Estimates of the value of federally-owned properties were developed in five phases, reflecting different groups of federal holdings. These estimates reflect Phase I estimates, Table 19, ACIR, Payments in Lieu of Taxes on Federal Real Property, A-90, September 1981, p. 112.

**These estimates reflect Phase II estimates, Table 19, op. cit..

SOURCE: ACIR staff.

The Federal response

The one generalization that can be made about the fiscal treatment accorded to the array of federally owned real property is that there is no guiding principle. Congress has recognized a responsibility to some local governments for making some form of tax or in lieu of tax payment to account for the federal presence, but the result has been the creation of a patchwork of uncoordinated and *ad hoc* special tax payment programs which have developed over the years.

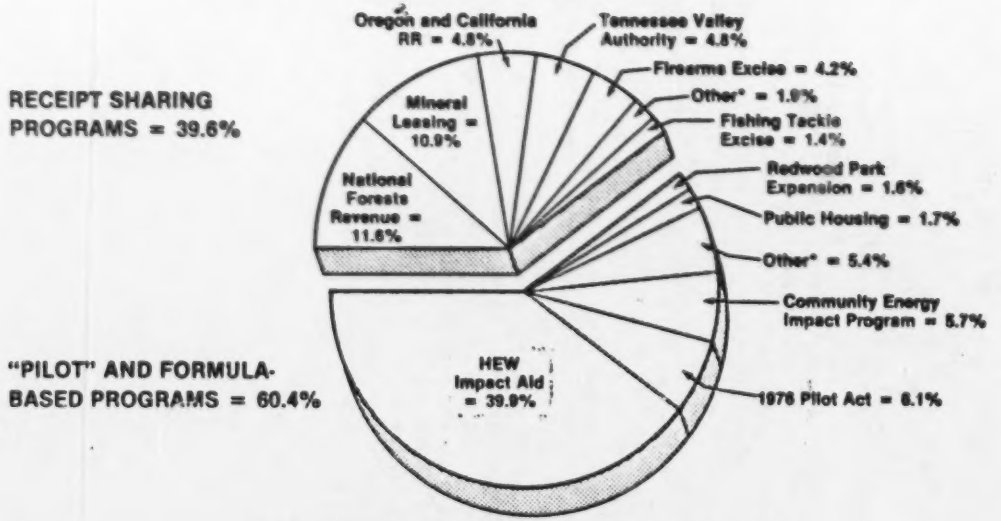
Perhaps one of the first points to be mentioned in a discussion of whether to treat the U.S. Government as a real property taxpayer is that there are no constitutional barriers to either the direct imposition of nondiscriminatory taxes on federal real property or of an equivalent payment in lieu of tax (PILOT). The reason the federal establishment is not generally taxed on its property holdings is that Congress denies that power to the states and localities. Thus, all that is needed is the statutory consent of the Congress. And, such consent is possible. There are some cases for which Congress explicitly authorized the full range of state and local taxes on instrumentalities which it has created. Examples include properties of the old World War II Reconstruction Finance Corporation, AMTRAK, and the activities of federal financial institutions (the Federal Deposit Insurance Corporation, the Federal Home Loan Banks, the Federal Savings and Loan Insurance Corporation, the Federal Land Banks, and the Federal Reserve Banks).

A more significant part of this patchwork response by the Congress is the set of special payment programs which have been authorized to compensate certain states and localities for the tax exempt federal presence. At present there are 57 different federal programs with a combined budget authority of $2.04 billion in 1979. These programs contain provisions for 64 different payments to specified states and localities. Of these 64 payments, 25 are of the revenue or receipts sharing variety, 18 are special payments in lieu of taxes, and 21 are formula based. The nature of each of these three types of *ad hoc* programs is depicted in Chart 2 and summarized below.

91-868 O—82——10

CHART 2

ESTIMATED FEDERAL PAYMENTS FOR RECEIPT SHARING, "PILOT" AND FORMULA-BASED PROGRAMS, PERCENT OF TOTAL PAYMENTS, 1979


RECEIPT SHARING PROGRAMS = 39.6%
"PILOT" AND FORMULA-BASED PROGRAMS = 60.4%
Oregon and California RR = 4.8%
Tennessee Valley Authority = 4.8%
Firearms Excise = 4.2%
Other* = 1.9%
Fishing Tackle Excise = 1.4%
Redwood Park Expension = 1.6%
Public Housing = 1.7%
Other* = 5.4%
Community Energy Impact Program = 5.7%
1976 Pilot Act = 6.1%
HEW Impact Aid = 39.9%
Mineral Leasing = 10.9%
National Forests Revenue = 11.6%

ESTIMATED TOTAL PAYMENTS = $2.04 BILLION

*PAYMENTS OF LESS THAN 1% EACH ARE INCLUDED IN "OTHER."

SOURCE: U.S. Advisory Commission on Intergovernmental Relations.

REVENUE OR RECEIPTS SHARING

These programs are designed to share the revenues and receipts that the national government derives from activities conducted on federal tax exempt property that lies within the boundaries of a state or locality.

The sharing of receipts from natural resource recovery on mineral or forest lands provides the most common source of payment although the funds generated from activities on park lands or grazing land may also be included here. Other receipts from leases, fees, and user charges collected on the exempt lands may also be shared.

PAYMENTS IN LIEU OF TAXES (PILOTS)

This set of 18 payments is specifically designed to compensate subnational governments for the presence of tax exempt federal properties which lie within their boundaries, regardless of whether receipts or revenues may be generated. The general idea is to relate the PILOT to the market value of the federal property; however, in practice the payment diverges from this norm. Only three payments provide for full tax equivalency (the amount the government would pay if it were actually fully taxable), four provide for partial tax equivalency (set at some percent of the tax value), and 11 are made on a fixed or flat sum basis, a sum that typically has been arbitrarily determined. The best example of this PILOT approach—as well as the most comprehensive of all federal payments programs—are the payments made to local governments which contain "open-space" entitlement lands such as national parks, national forests, reservoirs, and wilderness areas. As enacted in 1976 and subsequently amended, this payment covers federal land in more than 1,500 counties (mostly in the western U.S.) and supplements nine different receipts sharing laws. This supplement guarantees that total federal payments to a county meet certain per acre minimums and maximums.

FORMULA PAYMENTS

The third major form of compensatory payment consists of a variety of formula based programs. A common and distinctive feature is their negotiated payment character. Although they help defray local government costs due to the federal presence, they do not reflect a sophisticated cost analysis nor do they attempt to reimburse localities fully for community services used. And, although a property value factor may be considered in justifying the payment, that factor is rarely used for determining the amount of the payment. The most important example of the formula approach is the Education Impact Aid Program which directs payments to school districts throughout the country. Other examples are the Community Energy Impact Formula grants and the Community Energy Impact Fund administered by the Department of Commerce through the Coastal Zone Management program.

Scope of the report

The existence of a variety of payment programs indicates that, although Congress has shown little interest in giving its consent to state or local taxation of federal agencies and instrumentalities, it has recognized responsibility for compensating some subnational governments for the presence of the tax exempt federal establishment by authorizing payments by certain federal agencies. Nevertheless, most federal agencies are still without the general authority to make such payments. Moreover, the compensatory programs which do exist are diverse, resulting in different treatment for similar federal properties.

Within this context, several critical policy questions arise: What are the undesirable consequences of the current uncoordinated system that can be largely characterized as providing a tax exempt status for most federal real property? Would a new, uniform payment program be redundant in view of the billions of federal grant-in-aid dollars already made available to state and local governments? If it is determined that a program for making the federal government "pay" real property taxes is justified, what form should it take? What are the consequences for the recipient governments and the cost to the U.S. Treasury? And, if enacted, could an in lieu of tax payment be effectively administered?

The full ACIR report examines each of these questions in detail. In order to make the required analysis, the study estimated first the current dollar value of real property owned by the federal government in the United States (1978 was used as the base year) and from that basis the amount of taxes that the government would have to pay at current effective tax rates if it were fully subject to the real property tax. This hypothetical tax payment also gives the amount the government would pay to

states and, primarily local governments (96%) under a uniform payment in lieu of tax system (PILOT) based on full tax equivalency.[3] Although estimates of the value of federal holdings were derived for all federal real property in the U.S. as well as for only "non-open space" properties, estimates of the tax payment or PILOT amount were made only for the non-open space category. The PILOT projections were thus for all federal real property excluding (a) land used for flood control and navigation, parks and historic sites, forest and wildlife, reclamation and irrigation, and grazing; and (b) structures and facilities such as navigation aids, roads and bridges, and monuments and memorials.[4] Specifically included in the scope of the PILOT are all other lands and structures and facilities, and all buildings, such as office buildings, military bases, post offices, and communications and utility systems.

Once these federal property values and PILOT estimates were made, the tax equivalent PILOT was compared to the current combination of federal tax immunity plus ad hoc payments. Both federal approaches were evaluated for their differential effects relating to issues of cost to the federal treasury and revenue flows to the recipient subnational units, the degree to which the present exemption policy creates an economic burden on local governments, fiscal equity, economic efficiency, and fiscal accountability. Once these issues were discussed, the study concluded by looking at two more questions: Even if a PILOT makes conceptual economic sense, could it be effectively administered? And, are there forms of PILOT which have more merit than the full tax equivalency approach?

The remainder of this in brief summarizes the findings of the study pertaining to each of these issues.

PILOT BASE AND YIELD—COST

Estimates of the aggregate value of federally owned real property in the U.S. are presented in Table 1. The table presents several interesting facts. First, the bulk of the value of the government's real property holdings is located in non-open space areas. Of this non-open space total of $210 billion, 38% ($80 billion) can be attributed to civil uses. The remaining 62% is military. Central urban counties, which include central cities, account for $33 billion or approximately 42% of total civilian holdings. The finding that the larger part of the total value of federal property is held outside the central urban county area is explained by the non-urban location of structures and facilities and their various needs for space for special functions (e.g., utility systems, airfield pavements, transmission lines, railroads and storage facilities), and, of course, by the fact that many urban-related federal activities and properties are in metropolitan areas adjacent to the central core.

TABLE 1—CURRENT VALUE OF FEDERALLY-OWNED REAL PROPERTY IN THE UNITED STATES, 1978

[Amounts in millions of dollars]

Description	Current dollar value of federally owned real property and percentage composition [1]						Total	
	Land		Buildings		Structures and facilities		Amount	Percent
	Amount	Percent	Amount	Percent	Amount	Percent		
All real property	63,655	22.8	148,365	53.2	66,734	23.9	278,754	100
Real property excluding certain categories of "open-space" lands and structures and facilities [2]	20,024	9.5	148,365	70.6	41,794	19.9	210,183	100
"Nonopen space" real property, civil functions only	11,203	14.0	45,634	57.0	23,208	29.0	80,045	100

[3] The difference between actually making the federal government subject to the real property tax and the in-lieu of tax approach is largely one of timing and the greater administrative flexibility provided to the federal government under the PILOT.

[4] The major part of the effort of the full study was to devise a method to estimate the current replacement value of federal tax exempt real property and the cost and geographic revenue distribution of a compensatory PILOT program. However, before that could be accomplished, it was necessary to examine, in detail, the procedures by which the U.S. General Services Administration keeps records on federal holdings. These procedures were found to be deficient in several respects. For a discussion of the data issue and methodology procedure, see Appendix A of the full report.

TABLE 1—CURRENT VALUE OF FEDERALLY-OWNED REAL PROPERTY IN THE UNITED STATES, 1978—Continued

[Amounts in millions of dollars]

Description	Current dollar value of federally owned real property and percentage composition [1]						Total	
	Land		Buildings		Structures and facilities		Amount	Percent
	Amount	Percent	Amount	Percent	Amount	Percent		
"Nonopen space" real property, civil functions in central urban counties [3]	6,054	18.1	24,340	72.8	3,045	9.1	33,439	100
"Nonopen space" real property, civil functions in nonurban counties	5,148	11.0	21,294	45.7	20,164	43.3	46,606	100

[1] Detail may not add to 100 percent due to rounding.
[2] All real property excluding land and structures and facilities used for flood control and navigation, parks, and historic sites, forest and wildlife, reclamation and irrigation, grazing, roads and bridges, and monuments and memorials.
[3] A central urban county is that single county which is determined (by the U.S. Bureau of the Census) to represent the most densely populated and developed area within a metropolitan area (SMSA).

Source: U.S. Advisory Commission on Intergovernmental Relations.

Charts 3 and 4 show the geographic distribution of the value of federal real property on a regional and a state-by-state basis, and the value of that federal property is expressed as a percent of the market value of the federal plus assessed private taxable property. As the Chart 3 shows, the incidence of federal tax exempt property varies widely across the country, with the southeastern and far western part of the nation having the largest absolute amounts.

Chart 4 shows the relative importance of federally owned tax exempt property to the sum of the value of the private taxable plus the federal real property base. These data indicate that if the federal government were subject to the real property tax, federal holdings in the U.S. would account for approximately 5 percent of the national property value. More important, although the regional disparities do not differ as greatly as Chart 3 data initially suggest might be the case, the relative impacts do vary widely when viewed from the states, ranging from the District of Columbia,[5] where more than a third of the property base is federally owned, to states such as Vermont, Iowa, Michigan, Wisconsin, Minnesota, and New Mexico where there is relatively little impact.

In making comparisons, two points should be kept in mind. First, the data are based on non-open space areas only—large tracts of open land and large numbers of monuments and memorials do not explain the differences. The variations are largely attributable to structure and facilities and, for a place like D.C., office buildings within the jurisdiction. Second, due to the nature of the raw data used in deriving these estimates (see Appendix A of the full report), Chart 4 does not show that some localities may be very severely impacted—indeed even more than Washington, D.C. Places like Norfolk and Portsmouth, Virginia, with their naval shipyards and army towns around the Fort Stewart, Georgia, area are good examples.[6]

Table 2 shows the results that would occur if Congress were to authorize a full tax equivalency payment in lieu of real property taxes (effective rate multiplied by the tax base). Again, although recognizing that this PILOT would be paid largely to local governments (96 percent), the data are presented here on a statewide basis. The gross liability to the U.S. Government would have been approximately $3.7 billion in 1978—a figure that may also closely represent the 1981-82 amount in view of the fact that, for the U.S. as a whole, average effective property tax rates have been falling during the past three years.[7] For a given locality, of course, the amount of payment received is determined not only as a function by the value of the U.S. Government's property, but also by its local tax rate policy.

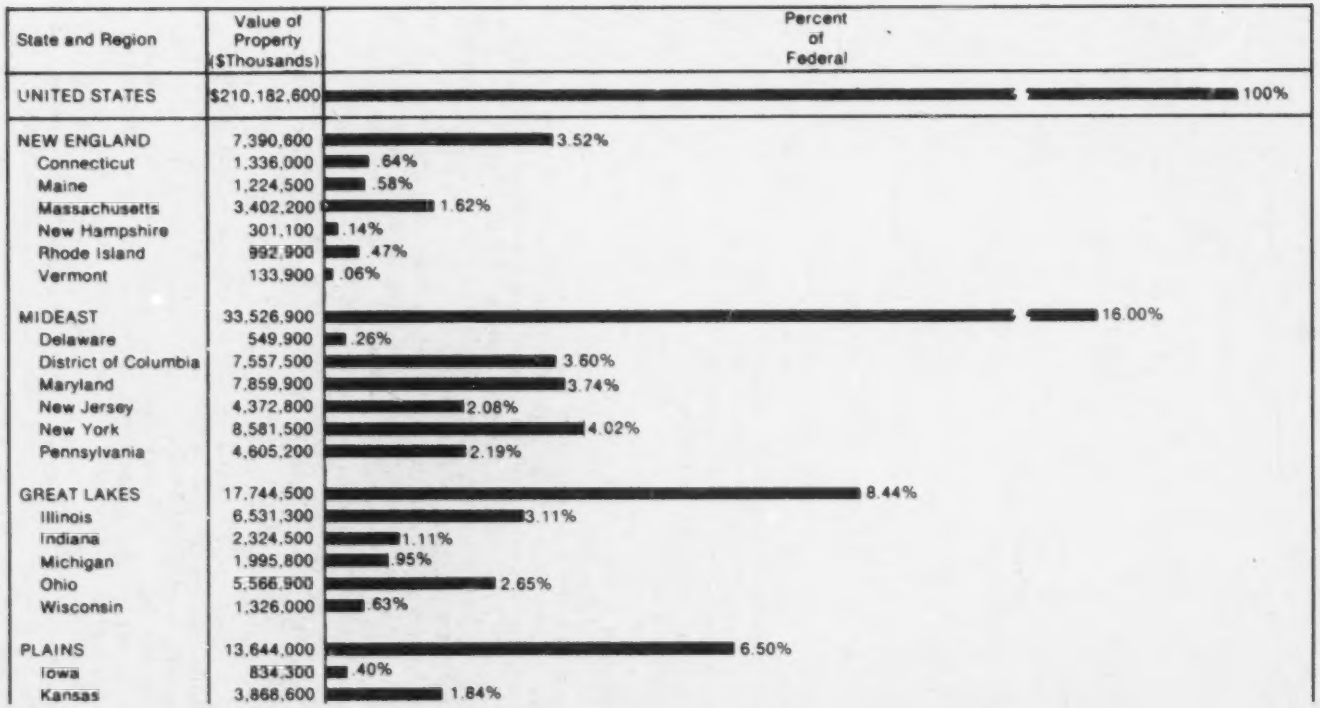
[5] Because public domain lands and monuments and memorials are excluded from the PILOT base, the D.C. numbers do not reflect the value of the Mall, the Capitol, or the many national memorials located throughout the city.

[6] The data base limitations were largely due to the differences between city and countywide property listing, a function of the form in which records are kept by GSA.

[7] For 1980 the average effective rate derived from existing family homes with FHA insured mortgages is 1.56 percent.

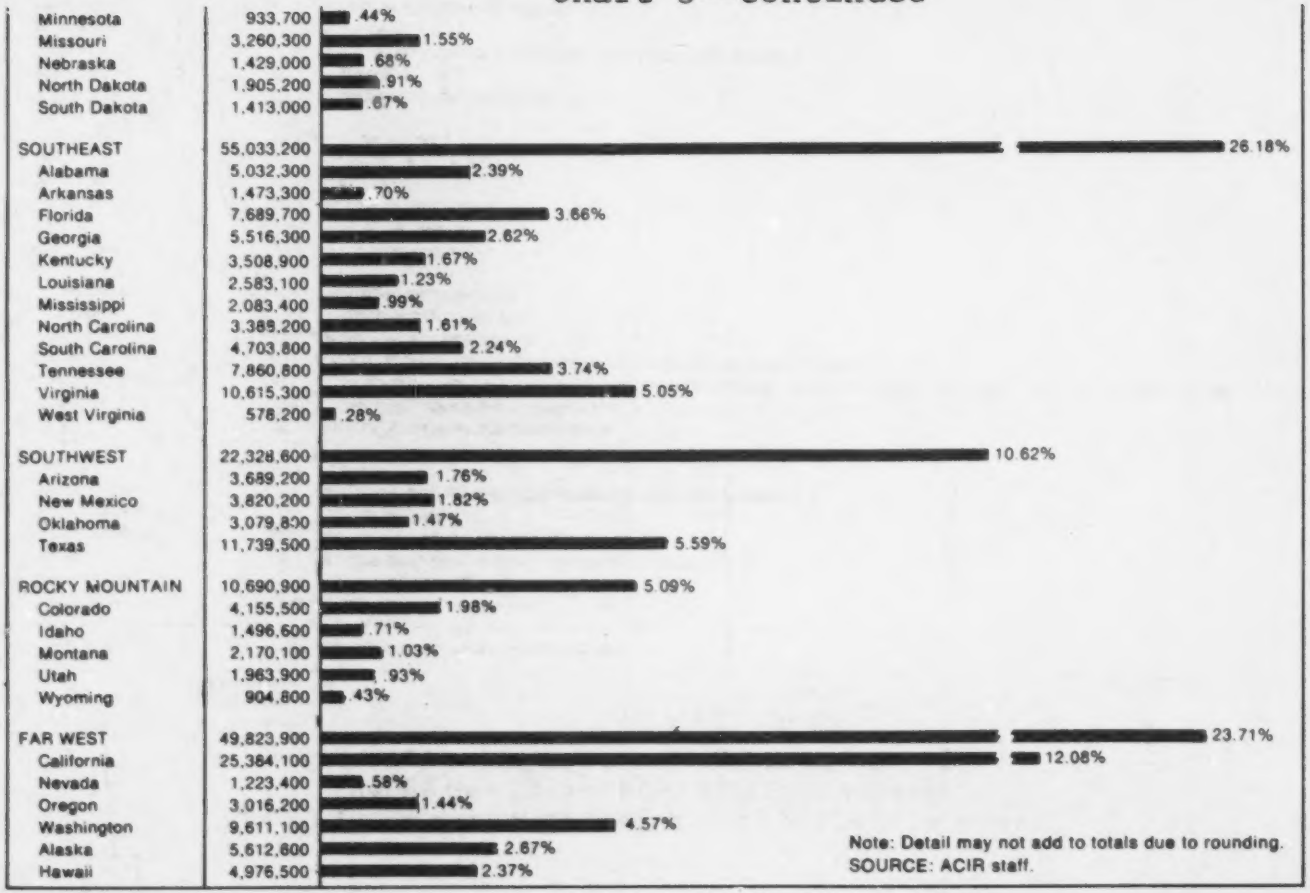
Chart 3

VALUE OF FEDERALLY OWNED REAL PROPERTY IN THE UNITED STATES, BY STATE AND REGION, 1978



State and Region	Value of Property ($Thousands)	Percent of Federal
UNITED STATES	$210,182,600	100%
NEW ENGLAND	7,390,600	3.52%
Connecticut	1,336,000	.64%
Maine	1,224,500	.58%
Massachusetts	3,402,200	1.62%
New Hampshire	301,100	.14%
Rhode Island	992,900	.47%
Vermont	133,900	.06%
MIDEAST	33,526,900	16.00%
Delaware	549,900	.26%
District of Columbia	7,557,500	3.60%
Maryland	7,859,900	3.74%
New Jersey	4,372,800	2.08%
New York	8,581,500	4.02%
Pennsylvania	4,605,200	2.19%
GREAT LAKES	17,744,500	8.44%
Illinois	6,531,300	3.11%
Indiana	2,324,500	1.11%
Michigan	1,995,800	.95%
Ohio	5,566,900	2.65%
Wisconsin	1,326,000	.63%
PLAINS	13,644,000	6.50%
Iowa	834,300	.40%
Kansas	3,868,600	1.84%

Chart 3--continued



Note: Detail may not add to totals due to rounding.
SOURCE: ACIR staff.

Chart 4

VALUE OF FEDERAL REAL PROPERTY AS PERCENT OF MARKET VALUE OF FEDERAL PLUS ASSESSED PRIVATE TAXABLE PROPERTY, BY STATE AND REGION, 1978

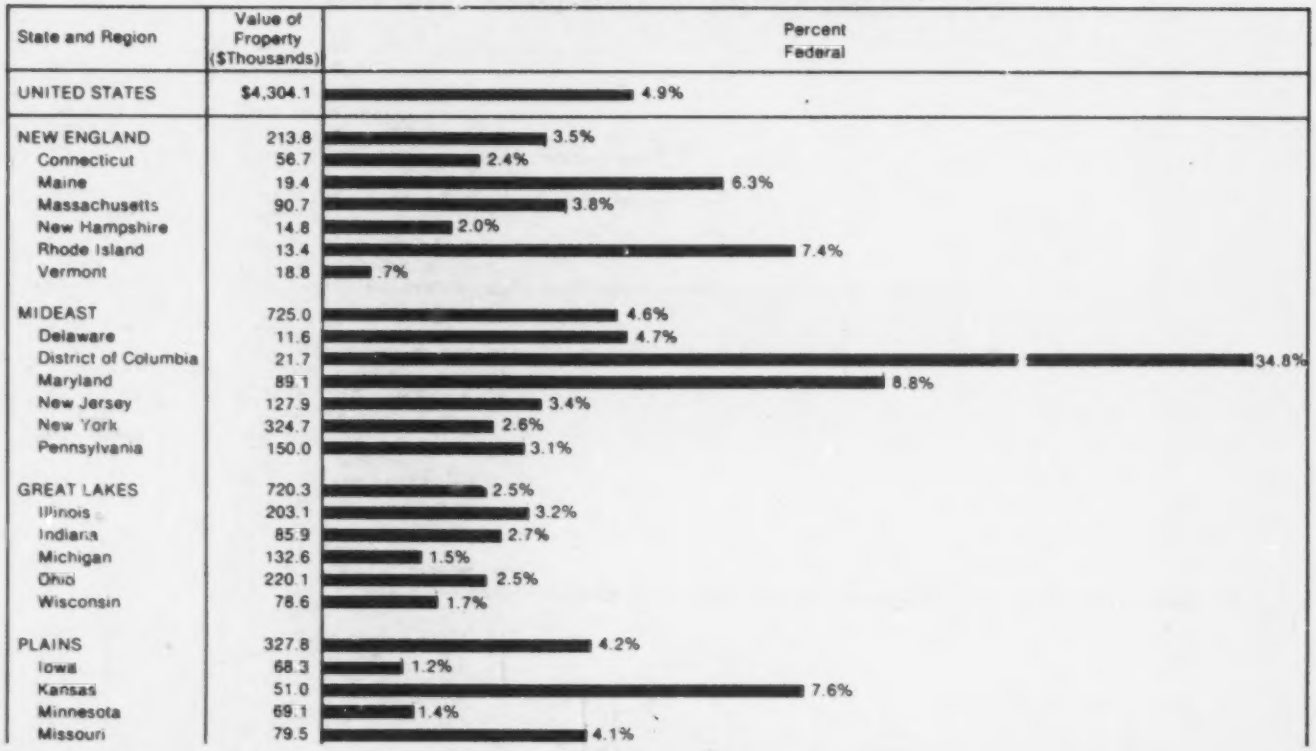
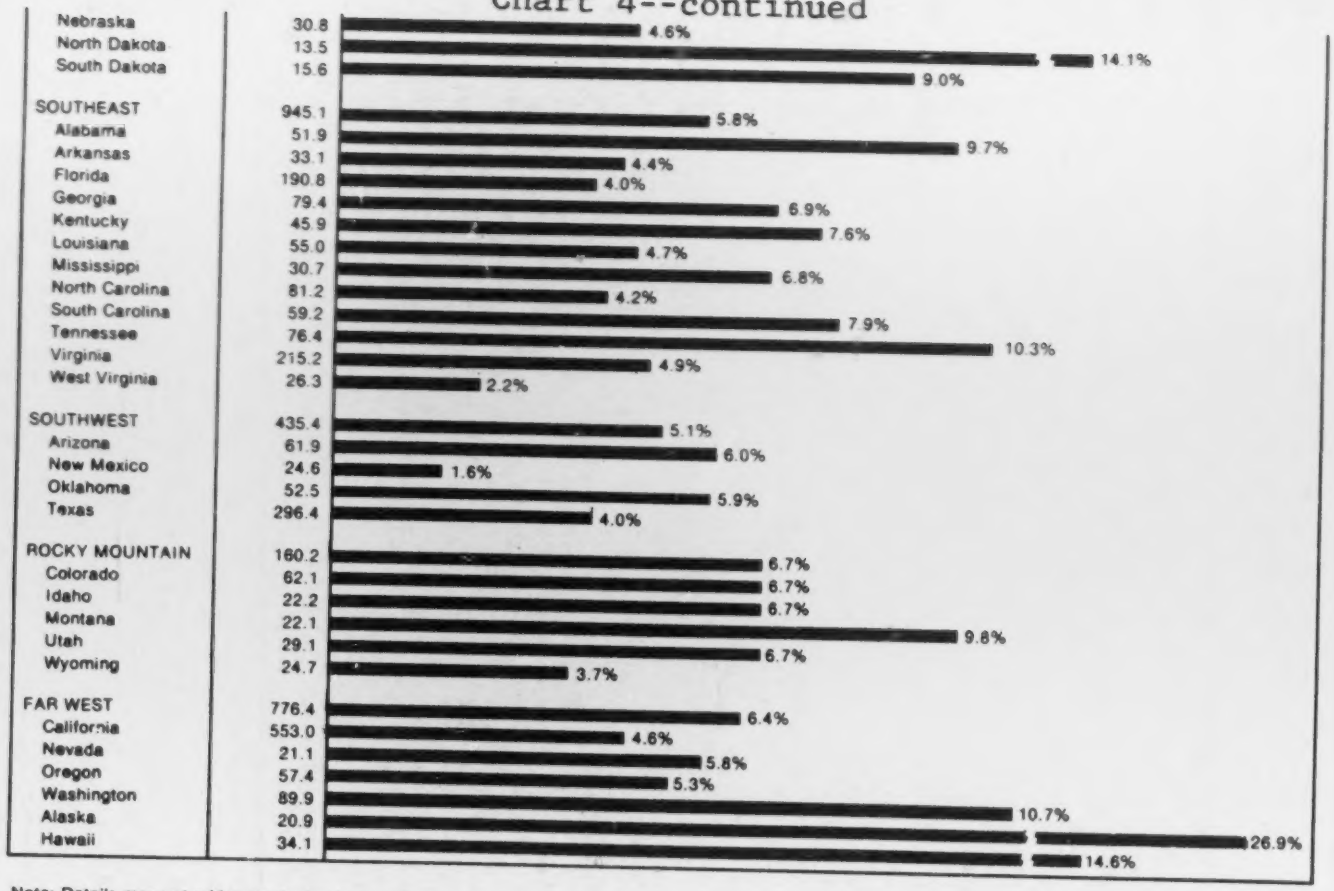


Chart 4--continued



Note: Details may not add to totals due to rounding.
SOURCE: ACIR staff compilations.

TABLE 2—EFFECTIVE PROPERTY TAX RATE AND FEDERAL PILOT AMOUNTS, BY STATE, 1978

States	Effective property [1] tax rate (percent)	Estimated Pilot liability (thousands)
United States, total	1.74	$3,657,060
Alabama	0.98	49,316
Alaska [2]	1.73	97,097
Arizona	2.48	91,492
Arkansas	1.49	21,952
California	2.21	560,989
Colorado	1.80	74,799
Connecticut	2.17	28,990
Delaware	.88	4,839
District of Columbia [2]	1.78	134,524
Florida	1.13	86,894
Georgia	1.27	70,058
Hawaii	.95	47,277
Idaho	1.46	21,851
Illinois	1.90	124,095
Indiana	1.66	38,587
Iowa	1.76	14,684
Kansas	1.37	53,000
Kentucky	1.25	43,861
Louisiana	.61	15,757
Maine	1.65	20,205
Maryland	1.69	132,832
Massachusetts	3.50	119,076
Michigan	2.63	52,488
Minnesota	3.40	31,745
Mississippi	1.10	22,917
Missouri	1.59	51,839
Montana	1.31	28,428
Nebraska	2.48	35,438
Nevada	1.71	20,920
New Hampshire [3]	2.38	7,167
New Jersey	3.31	144,739
New Mexico	1.65	63,033
New York	2.89	248,004
North Carolina	1.35	45,740
North Dakota	1.26	24,005
Ohio	1.26	70,143
Oklahoma	.95	29,258
Oregon	2.25	67,865
Pennsylvania	1.85	85,197
Rhode Island [3]	2.27	22,539
South Carolina	.82	38,571
South Dakota	1.79	25,292
Tennessee	1.40	110,051
Texas	1.84	216,007
Utah	1.03	20,228
Vermont [3]	2.21	2,959
Virginia	1.21	128,445
Washington	1.75	168,195
West Virginia [2]	1.10	6,361
Wisconsin	2.22	29,438

TABLE 2—EFFECTIVE PROPERTY TAX RATE AND FEDERAL PILOT AMOUNTS, BY STATE, 1978—Continued

States	Effective property [1] tax rate (percent)	Estimated Pilot liability (thousands)
Wyoming	.87	7,872

[1] The effective property tax rate is the percentage that tax liability is of the market or true value of the house. The average effective property tax rate is derived from existing single-family homes with FHA insured mortgages. Tax classification systems in the following states were adjusted with their respective effective property tax rates: Alabama, Arizona, Minnesota, and West Virginia. These rates were supplied directly to the ACIR by tax officials in the states.

[2] Rate for 1975 adjusted for classified tax. Later year rate not available.

[3] Rate is for 1974; later rate not available.

Note.—Details may not add to total due to rounding.

Source: U.S. Advisory Commission on Intergovernmental Relations.

What would this cost the U.S. Treasury? The estimates, including the $3.7 billion federal outlay, are based on the assumption that all the existing specific payment programs shown in Chart 1 above would be continued. However, one of the great benefits of the nationwide PILOT would be the ability to use that uniform PILOT as an opportunity for rationalizing the entire federal payment program by eliminating a number of smaller payment programs and reducing the congressional workload. Although several different replacement strategies could be considered,[8] the most logical one would be to eliminate all those programs which now provide PILOTs for the real property tax on the non-open space areas. There are 13 such overlapping programs (including federal Impact Aid for Education) with a total cost of approximately $1 billion—thus, the net cost to the federal government of a uniform PILOT could be reduced to $2.7 billion.

Moreover, for at least two very practical reasons, even the $2.7 billion may overstate the initial net federal budget cost. First, even if Congress were to grant its consent to a PILOT, it is quite possible that some local governments will opt not to assess the federal properties. At present only 17 states and the District of Columbia require that federal real property be assessed. Thus it is reasonable to expect that many localities in the other 33 states (and, indeed, probably some in the 17 assessing states) will not have adequate staff resources to assess federal property and join the PILOT program.

Second, the estimates in Tables 1 and 2 have not been subjected to the inevitable pressures for downward adjustments that would occur in the "taxable" arena. These adjustments could occur due to several factors ranging from the nature of the assessment and billing cycle (relatively few localities have annual cycles) and the accuracy of assessments (appeals can be expected) to the local budgeting process and the politics of the local tax rate setting process. (If all exempt federal property were to become part of the revenue base, the overall effective property tax rate would presumably fall due to the expanded tax base; this effect would be particularly strong in areas heavily impacted by federal property.)

Finally, what is the net cost of the PILOT to the taxpayers? Although a specific dollar amount is difficult to predict, it will be below the net dollar cost to the U.S. Treasury. This follows from one of the points just made: that for a given flow of public expenditures, as the federal government joins the local real property "tax" base, effective property tax rates should fall. Thus, if there are no other changes, though taxpayers will experience an increase in tax costs in their role as federal taxpayers, their tax costs will fall at the local level.

Is there a burden?

The U.S. Government currently provides approximately $87 billion in grants-in-aid to state and local governments. In real terms, federal aid has doubled since 1967-68. In view of this record, the obvious question arises as to why the Congress should enact another federal payment program—such as a PILOT—which would cost the U.S. Treasury another $2 to $3 billion. If the PILOT were only a back door way to increase federal aid, it could hardly be justified in a period of federal budget restraint. To address this question, it was necessary to first identify the purpose and scope of existing aid arrangements and then determine whether the PILOT would be redundant.

[8] See Chapter V of the full report.

Without attempting to make distinctions between intended and actual purposes of federal aid programs, federal grants can be distinguished according to whether they address social (poverty, crime, deteriorated housing), economic (a declining industrial structure), or financial (fiscal stress) needs of state and local governments.[9] Given this framework, the analytical question to be addressed is: as a general rule, does the presence of federal tax exempt real property significantly explain the existence of economic, social, or financial problems in local jurisdictions. If the answer is "yes," then one could legitimately conclude that by providing the existing set of aid arrangements, which are intended to address these needs, Congress had done enough; PILOT would be a redundant program. If the answer is "no"—i.e., that a PILOT does not overlap with the purpose and scope of the set of federal aid programs—then the redundancy argument against a PILOT collapses.

Indeed, the answer is "no" and is supported on both theoretical and empirical grounds.

Although there is little doubt that many municipalities experiencing social, economic, and financial problems are also those with large amounts of tax exempt federal property, the fundamental reasons for the "need" problems are not related to the presence of federal real property in the jurisdiction. The problems can instead be traced to such factors as reduced population growth and a changing age distribution, new technologies, the changing composition of the private industrial base and, even, federal government policies.

These theoretical expectations were supported by ACIR's empirical testing of the hypothesis that the value of federally-owned real property is not significantly related to the same concerns which are the focus of existing federal aid programs. In more technical language: the community needs cited above are not shown to have a significant association, either positive or negative, with the amount of federal tax exempt property.

In order to make these empirical tests, regression techniques were applied to the value of federal property and various need indicators for two sets of cities: the 45 largest cities and a random sample of 40 communities having a population greater than 25,000. No significant relationship between the three need categories and federal tax exempt property was shown to exist. Fuller discussion of these tests is presented in Chapter 4 of the full report.

EQUITY, EFFICIENCY, AND ACCOUNTABILITY

Three classic public finance principles of equity, efficiency and fiscal accountability can be applied to the issue of federal exemption from real property taxation.

Equity. The federal immunity from real property taxation violates the equity principle of public finance that "taxpayers" (here, institutions) in similar circumstances be treated similarly. This equity violation arises in three cases.

Unreimbursed Service Costs. Viewed as an institutional entity or as a group of workers, the federal establishment benefits from a wide range of local services. The direct services are familiar; they include police and fire protection, the bus system which transports workers and clients or consumers, public health and sanitation facilities and the courts. Less obvious, but certainly equally important are the indirect costs incurred on behalf of the federal establishment—costs that for some communities may be quite significant. For example, the local government may have to add to the capacity of its physical infrastructure (e.g., sewers and roads). It may incur additional expenses for its transportation authority or have to increase its education and social services budget to facilitate the federal government's mission, including providing for the needs of the federal workforce and their families.

Of course, the same argument can be made regarding private business institutions and residents. In Miami, the tourist industry creates significant local service costs. The same can be said of Boeing in Seattle, General Motors in Lansing and the steel firms of Pittsburgh. However, these private industries and firms are not immune from the real property tax. One can argue that by acquiring real property the government has assumed a responsibility borne by private taxable property owners. Thus, the equity criterion of "equals being treated equally" requires like property tax treatment.

Leasehold vs. Ownership Decisions. A second, more subtle (though certainly not unimportant) set of inequities arises because some federal activities are carried out on property leased from private landowners while others are conducted on federally

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[9] Peggy L. Cuciti, "City Need and the Responsiveness of Federal Grant Programs," a report prepared for the Subcommittee on the City, Committee on Banking, Finance, and Urban Affairs, U.S. House of Representatives, 95th Congress, 2nd Session, Washington, D.C., 1978.

owned real properties. When the federal government acts in the role of a lessee, its real property taxes are included in its rental payments. In fact, there are numerous property management regulations and arrangements entered into by the federal government (primarily through the General Services Administration) which stipulate that real property taxes be paid to landlords as part of a fair market rental rate. These include annual escalation clauses, "passthrough" agreements, reimbursable percentage clauses, and renewable contract arrangements.

The inequity arises since the federal government exempts itself from those tax contributions when it operates out of its own tax exempt facilities. Thus, not only can the federal government mandate its own local tax exemptions, but can also create different degrees of the practical effect of that tax exemption among localities due to its lease vs. ownership decision.[10]

Federal Contracting and Procurement. Each year the U.S. government solicits billions of dollars in private sector contracts for the purchase and development of products and services. If, as is the usual case, the contract is with a private taxable firm, the firm will include in its final contract price the usual costs of production, including property taxes. Thus, again, by sometimes employing the private sector the federal government arbitrarily pays property taxes in some localities while exempting itself elsewhere.

Efficiency

In public finance theory, efficiency or neutrality requires that fiscal policy be designed to accomplish certain intended objectives, but beyond that should minimize interference with other private economic decisions. Extending this concept of the least unintended distortion to collective decisions, such as PILOT, is a complex task requiring careful interpretation. One obvious distinction to be made is that the government's concept of cost minimization differs from that of a private entity. Keeping such caveats in mind,[11] at least two arguments can be made that a PILOT would force the federal government to manage its property holdings more efficiently.

The tax exemption encourages a wasteful use of property. Because the government is free from paying a tax (or PILOT) on the real properties it owns, it will underestimate the value of that property in alternative economic uses. For example, consider the federal government's decision regarding its space requirements when it retains large tracts of underutilized properties, perhaps in the form of office or housing facilities in prime metropolitan areas or vacant valuable shoreline recreation lands. One of the major ways to provide the property owner an economic signal regarding a higher or best use for the property is to do what is done with most private property—value it and tax it.

What sort of effects would this tax signal have for the federal government? If the PILOT were a small portion of operational costs, there would probably be no change in property management behavior. However, if the PILOT were seen as significant, two changes, both contributing to the efficiency goal and neither interfering with the federal government's mission—might occur. First, in order to minimize unnecessary holding costs, the government might lease or sell some of its property, perhaps even relocating some facilities. Alternatively, the government may simply become more efficient in its own property use by employing that property more intensively and, in the process, disposing of (or not acquiring) other properties. That either or both of these results could occur is attested to by the behavior of the U.S. Postal Service. Because it generally leases its facilities and therefore pays local property tax through various escalator or passthrough agreements, the Postal Service often moves its facilities (such as bulk mail operations) to minimize property tax costs.

The exemption from property tax gives the federal government a competitive edge in bidding for property and at the same time distorts land prices. Assuming a given set of state and local government services and that local taxes are capitalized into prices of real property, the tax exempt status of the federal establishment allows it to offer higher prices for a given parcel of property than a nontax-exempt (e.g., private business) competitor. In addition to being at a competitive disadvantage, the private taxpayer may also find that this land will decline in value from what it otherwise would be if the government were taxed. This second effect will occur as effective property tax rates are increased in order to maintain the level of public serv-

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[10] Nor is the lease vs. ownership decision based on any principle regarding the nature of the federal government's mission. Many military and national security groups, for example, are located on property privately leased to the government.

[11] There are several. For a discussion, the reader should consult the complete report, Chapter IV.

ices. These increased taxes, when capitalized, will reduce the value of taxed properties.[12]

Fiscal accountability

The issue of fiscal accountability is raised by the equity argument which states that by acquiring real property the Federal government has tacitly assumed a "tax-paying" responsibility similar to that of private property owners. If a PILOT were authorized, the Congress would eliminate a federally mandated subsidy from the state/local to the Federal sector. Moreover, because this subsidy is hidden—that is, it does not receive the periodic budget review given to other types of direct subsidies or expenditures—it violates principles of sound public administration.

HOW TO DO IT: FULL TAX EQUIVALENCY AND THE ALTERNATIVES

The full tax equivalency method—where the payment in lieu of taxes is equal to the amount the government would pay if the property were fully taxable—best meets the requirements of equity, efficiency and fiscal accountability. This follows from the basic premise that the Federal government, as a property owner, assumes the same set of responsibilities as private taxpayers. However, in coming to this conclusion, ACIR examined several alternative payment bases and found them inferior. These alternatives and their major characteristics are summarized below:

Net Benefits. The most common of the PILOT base alternatives to tax equivalency, designing a payment on some benefit-cost criterion (such as discounting for the benefits which result from the presence of the Federal establishment) completely falls apart when closely examined. There are at least three major reasons for this conclusion:

(a) A benefits adjustment violates the equity and efficiency principles. Moreover, the theoretical absurdity of the benefits argument is clear when it is taken to its logical conclusion. If a benefits test were applied evenhandedly to the government and private institutions alike, it would destroy the entire state/local property tax system. Should Boeing Aircraft be tax exempt because of the significant benefits it creates for Seattle? The financial industry in New York? The technological firms in Houston?

(b) Methodologically, the concept of a net-benefit test for all Federal facilities within local jurisdictions is so complex and speculative as to raise serious implementation problems. In addition, where the "federal establishment" can be said to have altered the entire structure of a community, a benefits-cost test is almost impossible to apply; and

(c) The observable net community benefits may exist only in the short run; benefits derived from the government's presence are generally comparable to those derived from similar private enterprises.

Cost-of-Services. The narrowest prescription for determining a PILOT, the cost-of-services approach, which would compensate subnational governments for the cost of federally-used local services, entails significant measurement and conceptual problems. This "cost" view ignores the practical reality that the real property tax, as the mainstay of local own-source revenues, must be used to finance some services for which allocation of costs is not practical.

Discounting for Own Services. The argument for discounting the PILOT by some percentage because the Federal government supplants some local services by providing its own public services has some merit. However, there are also numerous conceptual and implementation problems. The fundamental conceptual issue deals with the difficulty of drawing a line between activities which supplant and those which supplement local services, a division that is likely to be quite arbitrary. Methodologically, one is again faced with the problems of defining and measuring marginal costs.

Fixed Formula or Fee. The fixed formula, whereby the PILOT would be made according to a flat fee per employee (or some similar observable base), scores highest of all PILOT base options on the criterion of maximum Congressional control. However, the arbitrary nature of this approach fails to address adequately the equity concerns. It also fails to place a tax price on Federal property holdings, thereby thwarting the efficiency aims of a PILOT.

Threshold. The adoption of a "threshold approach," under which a Federal payment would be made only if total Federal property values in a community exceeded

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[12] Interestingly, this property tax capitalization can also have the effect of increasing central city-metropolitan disparities as the federal government continues to follow its recent policy of requiring its agencies to give central cities priority in location decisions (per Executive Order 12072).

some specified percentage of total (or total plus Federal) real property value, has the administrative merit of disqualifying small recipient local jurisdictions from the payment program. There are serious flaws, however, in the threshold approach. A fundamental problem is that it is virtually impossible to arrive at a logical basis for a threshold percentage. In addition, use of a threshold would arbitrarily create a whole new set of inequities.

ADMINISTRATION AND COMPLIANCE

Although the Federal government could establish a new agency or office to determine the current value of each of the buildings, structures, facilities, and parcels of land it owns in the U.S. and then remit the PILOT to the taxing authority, such an approach would be unnecessary and cumbersome. The obvious and currently viable alternative is to rely on local governments to determine the level of the payment due, and then have the state/local unit send a tax or PILOT "bill" (in the form of a grant application) to the Federal government. This conclusion follows from the state of the art of property tax administration in the U.S., the similarity between federally-owned properties to taxable privately owned properties (in general the nature of federally-owned properties are fundamentally no different from the range of properties now taxable), and the practical workings of the 20 year old Canadian system of real property tax equivalency PILOTs for federally and provincially owned real property.[13]

Administrative considerations regarding assessment reviews and appeals may present some operational, but not unusual, difficulties. In fact, the notion of the federal government reviewing and, when necessary, appealing the property tax (or in-lieu payment) it would pay is not only not new, it is already an ongoing process in some agencies which now pay property taxes through lease arrangements. Again, the U.S. Postal Service provides an excellent example. In Canada, the federal review process has worked with remarkable smoothness, and with little administrative overhead, through a federal real estate board.

WHAT DOES THE FEDERAL GOVERNMENT HAVE TO GAIN?

While the societal arguments for enacting a PILOT may be laudable, the real test will be in persuading the Congress. There are at least three good reasons for its enactment.

First, by eliminating the overlapping features of the existing patchwork of programs, Congress would not only reduce its own workload but also streamline the federal-state/local relationship.

Second, it would simplify the patchwork of federal payment policies. At present there is no guiding principle as to how federally-owned properties are to be treated for purposes of compensating local governments for the federal presence. A uniform PILOT would provide this guidance.

Third, such a payment would be superb intergovernmental relations. According to Douglas H. Clark, Assistant Director of Federal Provincial Relations for the Department of Finance of Canada, the Canadians' 20 year old federal to local PILOT program creates more goodwill with the citizenry than any other federal program or activity. Why? Because people see the federal government as accepting its fair share of property taxpaying responsibility; it is simply "good neighbor" politics.

ACIR RECOMMENDATIONS

In light of these findings and conclusions, the Commission has made the following recommendations regarding the tax exempt status of federal- and state-owned real property:

Recommendation 1: Improve the Inventory of Federal Real Property Located Within the United States.

The Commission finds that there is a great need for the U.S. government to develop procedures which will permit the government as well as the citizenry of this country to have biennial estimates of the current value of federally-owned real property in the United States. The Commission, therefore, recommends that the U.S. General Services Administration (or other agency designated by the Congress) establish permanent procedures to:

Record the current value of all federally-owned properties;

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[13] Similar assessment review operations also operate smoothly in private companies which have large amounts of real estate holdings throughout the U.S.

Require internally consistent reporting requirements of all federal agencies, civilian and military; and

Improve its recordkeeping on the actual physical location of all government facilities.

Recommendation 2: Congressional Authorization for a Tax Equivalency System of Federal Payments In Lieu of Taxes on Federal Real Property.

The Commission finds that the current federal immunity from the real property tax not only leads to a significant erosion of the total state and local own-source revenue base but that it also leads to gross violations of the equity principle in public finance that taxpayers in equal circumstances be treated equally. The Commission, therefore, recommends that the Congress authorize a program of payments in lieu of real property taxes to state and local governments in an amount equal to that which would be paid if the federal government were actually subject to the real property tax. The payment base should be restricted to those federal holdings not associated with open space properties which are at present covered under existing general receipts-sharing programs which the Commission recommends be continued.*

The Commission further recommends that the adoption of such a policy should be viewed as replacing rather than supplementing the existing patchwork of in lieu of real property tax payments, except for payments such as are made on the basis of the exclusions noted above.

The Commission also recommends that this policy be administered under established state/local procedures, including all provisions for administrative and judicial review of assessments, tax rules, and levies.

The compensatory objective of the payment in-lieu of tax program is separate from all other federal programs which provide general and categorical assistance. It, therefore, should not be linked to policy decisions regarding these other aid forms.

Recommendation 3: State Government Enactment of a Tax Equivalency System of Payments In-Lieu of Taxes on State-owned Real Property.

The Commission finds that the state programs which do compensate local governments for the real property tax immunity of state-owned property are, like those of the federal government, typically of a patchwork nature and lacking of any guiding principle for uniformity determining the level of a payment. Accordingly, the Commission recommends that each state examine its own real property tax immunity and consider authorizing programs designed to fully compensate local governments for the revenues lost due to the exemption of state owned real property.

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* Congressman Fountain did not participate in this recommendation because this is a matter within the legislative jurisdiction of the Subcommittee he chairs.

News Release: Advisory Commission on Intergovernmental Relations
Washington, DC 20575

FOR IMMEDIATE RELEASE
November 4, 1981

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ACIR Testifies on Payments In Lieu Of Taxes Proposals

Federal immunity from real property taxation violates the equity principle of public finance which requires that "taxpayers" (in this case, institutions) in similar circumstances be treated similarly, Dallas (TX) County Commissioner Roy Orr testified today on behalf of the Advisory Commission on Intergovernmental Relations before the Senate Subcommittee on Intergovernmental Affairs. "Federal property," Orr stated, "contributes to the costs of public safety, streets, mass transportation, the courts, and education for local children, but the federal government gets a free property tax ride."

According to a recent study by ACIR, Payments In Lieu of Taxes on Federal Real Property, the federal government's holdings include over one-third of the country's land area, 23,988 installations, 2,598 million square feet of floor space, and various other facilities valuing, in total, approximately $280 billion in 1978. The tax exemption on federal holdings results in a loss of $3.65 billion in real property taxes to state and local treasuries.

At present some 57 different programs are in place to compensate for federally-owned tax exempt real property. These programs contain provisions for 64 different payments to local governments, with a total budget authority in 1979 of $2.09 billion, and are, the Commission found, essentially incremental, ad hoc actions which do not even approach a comprehensive and consistent response. The existing patchwork of programs for non-open space federal properties should be replaced with a uniform payments in lieu of taxes program, the Commission recommended. A uniform system would be simpler to administer, more equitable, and likely to improve federal-state/local relationships.

The Commission's recommendations, as summarized by Commissioner Orr in his testimony today, have three parts. They are:

1. Improvement of the inventory of federal real property located within the United States.

2. Congressional authorization for a tax equivalency system of federal payments in lieu of taxes on federal real property.

3. State government enactment of a tax equivalency system of payments in lieu of taxes on state real property.

Because the Commission-endorsed approach would replace many of the existing non-open space federal payment programs, the net cost would be about $2.65 billion. The recent Commission study, the subject of today's hearings, is concerned with non-open space (urban) federally-owned property. In 1975, the ACIR studied the programs enacted by the Congress under which certain payments per acre are made on national forests, national parks, and nearly all other federal public land holdings.

The ACIR is the national, bipartisan commission established by the Congress in 1959 to monitor intergovernmental relations and make recommendations for change. Its member include federal, state and local elected and appointed officials and private citizens. Interior Secretary James Watt is chairman.

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Washington, D.C. 20540

November 16, 1981

TO : Honorable David Durenberger
Chairman
Subcommittee Intergovernmental Ralation

FROM : Robert E. Wolf
Assistant Chief
Environment and Natural Resources Policy Division

SUBJECT : A Review of Shared Revenues and Payments in lieu of Taxes from Federal Natural Resource Lands

This outlines:

1. The general considerations for revenue sharing from Federal lands
2. Payment in lieu of taxes from public lands
3. The Public Land Law Review Commission-1964-1970
4. Efforts in the 1970's to revise payments to counties and PILT, 1976
5. The Reagan Administration proposal to reform PILT
6. Basic problems with the analysis by the Administration of how it's proposal would work

Summary

The web of shared revenue programs applicable to Federal resource lands is complex. The web of other programs is even more complex. While these are touched on they are so numerous and diverse this can not be done neatly or succinctly, even on the other programs that are tied to federal land.

For a number of the programs that are not formula grants it would be tremendously difficult, and beyond the scope of CRS to develop a county by county breakdown or to state whether Federal lands were a factor in the

sums provided. The type data that will illuminate issues sufficiently for the Committee if it desires further information we can define or outline how it might be obtained from the Executive agencies.

The significant budget changes proposed by the President and adopted by Congress under reconciliation of the budget will have future affects that will change present relations. Major reductions can be expected in a number of the other programs. On the other hand, if the economic effects the Administration has forecast are realized, it says that new benefits to the economy and tax base will offset the Federal program reductions and States and local governments will be financially stronger.

If the marked pick-up in the economic vigor the Administration seeks is realized, then shared revenues from the two principal sources of regular shared revenue will also increase. These are timber and minerals. Administration price expectations should enhance future payments, if correct. Further their proposals for increased outputs of timber and minerals from the public lands, if feasible and realized, it is said will increase payments. However now forecasts for timber revenue are down while minerals will rise.

However, for much of the Federal lands BLM and Forest Service manage, which are the multiple-use base which produce most of the revenues, marked and larger timber outputs can not be expected, and mineral increases will occur in site specific areas. Grazing, recreation and other uses have never been large revenue producers and are unlikely to appreciably or universally increase.

Neither the existing shared revenue acts, PILT as now in law, or PILT as proposed for change by the Reagan Administration, will address the core problems cited in 1970 by the Public Land Law Review Commission, or the Interior

Committees when PILT was enacted in 1976. Revenues are likely to continue to fluctuate, the percentage revenue sharing will not pay anything if no revenue is generated, the payments will remain unrelated to local burdens, even if accurately identified, and the benefits from Federal lands remain unequated.

Shared revenues rose from the PLLRC study era until PILT was enacted. They have climbed even more since then. The permits and contracts already let for revenue producing resources, barring a recession, will further increase shared revenue distributions. In theory these should have dampened the demand for PILT payments and reduced the budgetary level. This has not occurred.

1. General Considerations

Federal lands may not be taxed by local or State governments. Until 1908 this was true in policy and in fact. Since that time, commencing with the national forests, a series of acts have made payments--in-lieu of taxes designed generally to be paid to the counties where the natural resource lands are located. These payments vary greatly. Some lands make no payment. None are required, since the Constitutional prohibition still exists. However, the system that has evolved, with few exception, is one which generally pays a percentage of revenues to the State, with it's legislature charged with allocating the money to counties where the lands are for specified uses. The Federal law usually creates the use purposes and states the way the various localities will share. This normally is an acreage prorationing.

Local governments have a substantial dependence on locally collected private property taxes. The Federal natural resource land payments have

been provided due to the inability of the local government to levy such a tax on the Federal lands. However, some states and localities do tax logs from all land, including Federal, as well as improvements installed by permittees on Federal land. In some cases, the ability of the localities to tax improvements is foreclosed by the permittee treating them as "Federal" property.

Property taxes have certain characteristics. The typical tax rests on a value of the property, applying a tax rate to that value. From year to year values and rates are revised to yield an estimated local revenue. For timber, minerals and in some other materials, an alternative taxing system has been devised and used-severance or yield taxes. These are based on the value of the material extracted, with the tax a percentage of the value. In most situations the bare land is then valued under the property tax concept while the material extracted is under the yield or severance tax.

Most Federal natural resource payments in lieu of taxes are similar to the yield tax approach -- they are a percentage of revenue. With a few notable exceptions. In one case, certain National Forest lands in Minnesota, the payment is based on 3/4th of 1% of the estimated value of the land. In another case, the Coos Bay Wagon Road lands in Coos and Douglas County Oregon, the payment is based on the applicable tax on similar private land not to exceed 75% of revenue. This is significant because these are forested lands and in 1978 Oregon changed from a property tax to a severance tax thus affording a way to reach a judgement of the effects of both systems in that situation.

In general property taxes are from 1 to 2 percent of the value of the property. There is wide variation around the country, from values set from levels well below fair market value to those that truly approximate it. When local millage rates are applied the result may be that the same proper', n different jurisdictions may be taxed quite differently.

Views on the soundness of local tax policy will vary from the point of view of the local government or the taxpayer.

Local governments are creatures of the State legislature in the State where they are located. It is the State that licenses the local tax, exercises significant control over local application of tax policies and determines what they may tax. The property tax is largely in the domain of local governments.

For a considerable period schools and roads were major local government responsibilities, along with law enforcement. However, in the past several decades the States have increa ed their assistance to local governments in these areas and local governments have taken on added responsibilities.. In addition the Federal Government has also provided significant local assistance in a wide variety of programs as the level and type of governmental services has been enlarged.

An issue that constantly is before government is whether tax policy of fair, equitable and understanding. There is seldom agreement that this result is obtained.

2. Payments in lieu of taxes from public lands

Prior to 1902 the Federal Government paid 5% of the proceeds from the sale of public lands to the State where the lands were located to be used as partial compensation to the local community for prior loss of taxes (see CR 14954 9/10/1914). It was recognized that the Federal lands, when patented would go on the local tax rolls and thus share in the support of the local government. This provision still exists governing sale of public lands and materials from public domain lands.

When the Reclamation Act was enacted in 1902, the public land sale receipt allocation was changed to allocate all to the Reclamation Fund to help defray the cost to build dams and works of irrigation in the Western 17 States. In a further revision the proceeds were split so that 95% goes to the Reclamation Fund and 4% goes to the States, with 1% to the Federal Government.

From 1902-1979--a 77 year period--$293,000.000 has been credited from land sales to the Reclamation Fund and $24,000,000 to the local payments to be used for public education, roads and public improvements. It has been a declining componnts since land sales are now very few. Imfact, most of the current revenue is from BLM timber sold from its public domain land.

In 1907 the Congress enacted, as a part of the Agriculture Appropriation bill, a proviso which allocated 10% of National Forest revenue, anticipated to be derived mainly from grazing and timber, to local governments for schools and roads. The money was to be allocated in proportion to the acreage of that national forest in each county where the forest was situated. In 1908 the allocation was increased to 25% of revenue. The pay-

ment is made to the State to disburse to the county in accordance with the provisions of 16 USC 500.

The mineral disposition policy for the public lands commenced in 1866 and it's operation created several problems that took until 1920 to largely resolve. This is not the place to define mineral problems but some mention is appropriate.

The 1866 and 1872 Mining Laws permit free taking of minerals and sale of the land at a nominal charge. Under that law one could stake out claims, removing minerals without every getting a title to the surface, but if one wants title to the surface it was be secured on a valid claim by paying only either $2.50 or $5.00 per acre, with no charge for the minerals. With the discovery and marketing of oil and other nonmetaliferrous materials there was a long and often acrimonious debate about the proper means of disposal. One school opted for application of the 1872 Act which involved patenting at no payment, except for the land surface, while the other school opted for a leasing system. By 1920 a leasing system based on paying royalties for materials extracted was adopted. During the proceeding decade numerous bills were considered. These are significant because they shaped the system adopted in the 1920 Act for payments to local governments.

For example the 1914 bill proposed that all revenues would go to the Reclamation Fund, with payments to local govenments only from money paid back to the Fund by projects. In that era it was anticipated that the Reclamation Fund would be repaid to the Treasury. Thus the proposal was that the local governments would get 50% of only the revenues returned to the Fund after use for reclamation. The Secretary of the Treasury was to

pay the money to the State where the revenue was derived for the support of public schools, other educational institutions or the construction of public improvements as the State legislature may direct.

From 1914 thru 1919 it as argued that this would work a hardship on State and local governments because they would not get the 5% from the sale of lands that heretofore had been paid for the benefit of local governments. In addition it was argued that a leasing system would not result in mineral title passing thus the States might be denied revenues in other ways, such as inability to tax improvements on the Federal leases and output from Federal lands. However, as current severance tax policies shows both may be locally taxed and State taxed.

While the 1914-20 debate was long and involved, it is clear that the provisions that allocated all revenue to the Reclamation Fund for irrigation and power development, leaving the counties to derive revenue only after return of the "borrowed" project money to the Fund, lacked appeal. Congressman Mondell argued that nothing should go to the Reclamation Fund, He wanted the mineral receipts to go to the State of origin, half to be used in the county which produced the revenue and half to be distributed throughout the State for schools and roads. He argued that the revnue from the sale of public lands was adequate to fill the Reclamation Fund (p 14955 CR 10/10/14). Additionally he argued that the Reclamation Fund would soon be augmented by project repayments.

[Remarks by Congressman Mondell]

Reclamation Fund Not Dependent on These Funds

Our people realize that such a procedure is as unnecessary as it would be unwise and inequitable. The reclamation fund is supplied by the proceeds arising out of the sale and disposition of public lands, and but a small proportion of these proceeds has come from the sale of coal and oil lands. The total receipts from public lands turned in to the reclamation fund from 1901 to 1913, inclusive, has been over $80,000,000, of which sum less than fifty-seven millions came from the sale of oil and coal lands. The reclamation fund does not, therefore, depend to any considerable extent upon income from these sources, but will continue to be supplied from the sale and disposition of other classes of lands, which are estimated for the future at about $7,000,000 per annum. Furthermore, the reclamation fund will from now on be increasingly augmented through repayments into the reclamation fund.

The gross inequity of the plan of turning all rents and royalties from leasing into the reclamation fund is apparent upon the slightest consideration of the situation. To turn the proceeds of land sales above the 5 percent which goes to the States into the reclamation fund is equitable, for the lands sold become taxable and the communities and States receive their support therefrom. On the contrary, the leasehold prevents sales and prevents the taxation of the mineral values in the property. Without the rents and royalties the communities would be deprived of that income so necessary where mineral development is going on to build and maintain schools, and large sums are needed for roads.

In view of this state of affairs it would be a gross injustice to divert all of the rents and royalties into the reclamation fund, even through the fund were to a considerable extent needing and dependent upon this source of income, which it is not. Irrigation is highly useful and valuable, the reclamation of lands under national projects is highly beneficial; but an interior county in Wyoming, for instance, deprived of the benefits they should receive from mining development in their midst to help build schools and roads and to carry on affairs of government, could scarcely be expected to be reconciled to their loss of revenue because it was being used to build an irrigation project in Texas. They could scarcely be expected to be happy, even though their revenues were being used no farther away than in Montana, or even several hundred miles away in their own State.

The point of it all is that if rents and royalties are to be collected by the Government from lands within the States, those rents and royalties should, in the main, go, first, to the immediate community and, second, to the State. Reclamation projects, beneficial as they are, affect but a very small proportion or percentage of the people of any State, and he is not a friend of the West who would tax development in the West to a burdensome extent even for this worthy purpose. It might under all the circumstances be proper to divert a portion of these rents and royalties into the reclamation fund—enough to compensate the fund in the long run for loss through discontinuance of sales. At the outside this would be less than half the amount of the rents and royalties.

RETURNS WOULD BE LONG DELAYED

The friends of the bill in question defend it by pointing to the paragraph which I have quoted, which proposes that the royalties and rentals, after first being used in the construction of reclamation works and repaid to the fund, shall, to the extent of 50 percent of the receipts, be returned to the State where they originated. This is a real joker, though it is our duty, I presume, to assume that it was proposed in seriousness and in good faith. This provision has already been used as an argument against the extension of reclamation payments and defended on the ground that the States in which mineral resources are located have no special claim on them and no particular cause for complaint if they never receive any part of the rents and royalties. I defy anyone to intelligently diagram the procedure through which a dollar, paid into the reclamation fund at a given time, may be so tagged and identifed that it shall be known whether it goes into a $10,000,000 project in Texas an $8,000,000 project in Idaho, or when it is repaid.

Assuming, for the sake of argument, that a system of bookkeeping could be devised which would make the plan proposed practicable, the delay before communities received any benefits would be intolerable. Several years might elapse after the money got into the reclamation fund before it was utilized or expended. Several more years might elapse before the project was opened and payments began. The

period of payments should be 20 years, and will be when a bill which has passed the Senate and been reported in the House becomes a law. It might therefore be 25 years, or even more, before money received as rents and royalties from a given State and paid into the reclamation fund would be returned to the State. In the meantime the communities and the States in which development was going on, necessitating a large outlay for public purposes, would be bearing this heavy burden, while large sums obtained in the development of their mineral resources were being used for the development of communities hundreds or even thousands of miles away.

There were extensive objections to even the concept of leasing, thus the failure of the 1914 bill was not due to it's revenue disposition procedures, although they contributed to the opposition. The evolution thru to the enactment of the 1920 Act need not be traced. However, the immediate bill that became law differred from the House and Senate versions.

The final law provided 52 1/2% of revenue to the Reclamation Fund, 37 1/2% to the State to allocate for schools, roads, and other educational insititutions, and 10% to the Treasury General Fund. This provision stood unchanged until 1976 when the Congress reduced the Reclamation Fund share to 40% and increased the State share to 50%, still a total of 90% allocated, with the 10% remainder to the Treasury General Fund.

The current 50% to the States is noteworthy. The historical concept came from the Forest Service 25% allocation, with a presumed half to local roads and half to local schools, the added 12 1/2% tracks with the concept of adding "other educational institutions", thus allocating Mineral Leasing Funds to State colleges. The recent change that increased the State share to 50%, adding 12 1/2%, was conceived as an impact aid approach since it directed that this portion was for counties impacted by mineral development.

Since the sharing of revenue began, exclusive of PILT, almost $5.8 billion has been paid under a series of formulas. The principal ones are:

Agency	For Period Since	Shared Revenue Formula	Total Paid	Approx Acreage
Forest Service	1907	25%	$2,368,000,000	184,000,000
BLM Grazing	1934	12 1/2 & 50%	37,000,000	140,000,000
BLM Land Sales	1803	5%	25,000,000	235,000,000
BLM-FS Minerals	1920	50%	2,270,000,000	420,000,000
Sub Total			4,700,000,000	-----
BLM-FS O&C	1916	tax equiv. & 50%	1,040,000,000	2,565,000
BLM CBWR	1919	tax equiv.	13,000,000	74,000
Total			$5,753,000,000	

Because the periods are not consistent and an average would be meaningless, no average figure has been developed. However, all of the levels of payment have shown marked increases over the past decade except for the Coos Bay Wagon Roads, which are on tax equivalence. These declined, due to a change in the Oregon tax law for timber from ad valorem to severance, and public land sales which have declined. BLM grazing has moved up slowly due to the fee structure. The major increases have been for the O&C lands, the National Forests, spurred by timber income, and Mineral Leasing.

For example in 1980 total payments for entitlement lands under PILT were $594,000,000 compared to historical totals of $4.7 billion. When O&C and CBWR payments are included a total for 1980, totals of $692,000,000 for 1980 can be compared with $5.753 billion for the entire period.

The bulk of these payments have gone to about 3 States, Oregon, Wyoming and New Mexico based on timber and minerals.

Together the National Forest revenues and the Mineral Leasing revenues constitute the greatest part of the shared revenues from Federal natural resource lands. Grazing, recreation, and permitted land uses provide low income.

The 1934 Taylor Grazing Act finally provided a system of permits and fees from grazing for BLM lands. From 1905 forward the National Forests had a permit and fee system. The Taylor Act created an additional unique allocation of grazing revenues. The bulk of the BLM lands in the West are in Grazing Districts. The permits issued to graze on these lands share only 12 1/2% of the revenue with the counties. On the smaller acreage outside organized grazing districts, 50% of the revenue is allocated to the counties.

However, the 1934 Act divided the fee paid by ranchers into two parts- one of which was not part of the distributive share for the counties covers improvements in the range area to enhance grazing. The other part, technically is the "fee" which is the base for the distributive share to the counties.

The reasoning of the ranchers, who prior to 1934 paid no fee, was that the fee should be mainly to improve the range. In the debate of over a decade about whether grazing should be regulated the ranchers argued against both regulation and fees. At the same time local governments were arguing that they too had governmental costs and should get a share of grazing revenue. Thus the solution developed was to divide the grazing payment into a fee and a range improvement account.

In 1947 (Act of August 6, 1947, 61 Stat 790). The Act was changed so that the County share was reduced from 50% of the revenue to 12 1/2% with 25% of the fee was allocated to range improvement. For leased lands,

those outside grazing districts, the payments to the States was to be 50%.

Despite discussion when the Taylor Grazing Act was under consideration in 1934, the law, while requiring distribution of money to the counties producing such money for their benefit, does not require it to be used for limited purposes, such as schools and roads.

Parks were generally excluded from making payments. Each Park is Statutorily created. Most of the early Parks were carved out of existing public domain land, either in National Forest or BLM's land. In the last two decades many of the newer Parks have been created using existing Federal land plus purchasing private land. It was generally argued that the Park would be a tremendous local economic asset, attracting tourists, thus shared revenue or other payments were not needed since the Park's economic stimulus would counter alleged tax losses.

For Fish and wildlife refuges, which were considered to be created for wildlife purposes rather than revenue, while payments were authorized, the original view was that tax losses to local governments were not significant. Again, many of the early refuges were created out of existing Federal land. Since in that era revenues from Federal land were low, the change to Refuge status generally did not shrink revenues to local governments.

Agitation for additional Federal payments has fallen and risen within the framework of the then existing economic situation. In the 1930's, for example, much private forest, range and farmland was tax deliquent. Under such acts as the Forest Service Week's Law and the Bankhead-Jones Act sizeable additions were made to the federal land base. The effect was that the Federal

Government gave the lands conservation management, planting trees and grasses, providing fire and other protection and generally relieving local governments of burdens that adversely affected the area. However, overall, local governments have wanted to be able to derive some revenue from the Federal resource lands. They have constantly urged that shared revenue provisions be made.

In Minnesota, the Forest Service manages the Boundary Waters Canoe Area, and under acquisition authority has purchased resorts and most of the other private land in this highly used recreational area. Timber sales were curbed, then eliminated, thus the small 25% payments the lands then produced, were further reduced. This led to enactment of a special provision which provides for appraisal of the land every 10 years, with payment as a tax equivalence at 3/4ths of 1% of this value. The three counties where the lands lie did not consider this fully effective after a while and it was their concerns which prompted Congressman Blatnik and Senator Humphrey, in the 1970's, to propose revision of the payment in lieu of tax legislation. This will be described under PILT.

Interior's BLM also manages 2 special blocks of land in Western Oregon, 2.6 million acres in all, which has a complex and unique history. First it should be noted that 20% of the largest block, 2.5 million acres, called the Oregon and California lands, have always been managed by the Forest Service as a part of the national forests and never were taxed as private land. The BLM managed portion of this grant, and the smaller 75,000 acre Coos Bay Wagon Road Grant, were both privately held and once taxed as private land. The railroad companies that had been granted these lands accepted them under statutory stipulations that they be sold in 160 acre blocks to actual settlers at $2.50 per acre. Numerous factors caused the railroads to violate

the grant and after litigation that went all the way to the Supreme Court the grants were revested in the U.S. From 1916 forward, several acts were passed by Congress that sought to dispose of the lands while paying the counties tax equivalence based on values when the lands were on the local tax rolls in 1915. The actual payment was limited to sums not to exceed revenues derived. The sales were insufficient to generate enough revenues to pay the taxes and discharge other debts created by the revestment. Thus in 1935, based on the then existing law, 3 years back taxes were unpaid as well as debts created by special actions to pay earlier taxes when revenues were insufficient.

From 1916 thru 1937 the Western Oregon counties sought a solution to the situation. Various relief measures did compensate them for all but the last 3 years in unpaid taxes by 1937. However, this was in the depth of the Depression and the outlook for revenue was grim. Large private forest holdings were in massive tax deliquency. Additionally the basic O&C Act was designed around the theory that all of the lands were agricultural and that all that need be done was sell off the timber and they would become 160 acre farms. Virtually all of the truly agricultural land had been disposed of during the railroad tenure and the remainder was heavy Douglas fir forest on steep slopes unsuited to agriculture. Finally, the forest products industry was operating well below pre-Depression levels and, with private timber in a serious financial slump, active disposal of public timber, including the O&C timber, was viewed as hurtful to industrial and nonindustrial owners.

In 1937, following numerous meetings by Interior officials a new management plan act was developed and sent to Congress for enactment. It

met the objectives of the forest industry and other users, but the shared revenue provisions were opposed by the counties.

The bill had a shared revenue scheme to replace a fixed sum based on tax equivalence. It's essence was to grant 50% of the revenue to the counties. It was sweetened by allocation of part of the next 25% in revenue first to pay immediate unpaid back taxes, next to reserve a fixed percentage to raise the 50% payment in any year it did not equal 78% of tax equivalence to whatever level 3/5th of 25% would attain with third place granted to recouping to the Treasury the large outstanding debt from prior payments. An additional sweetner was a proviso that when all debts were paid, then 75% of revenue would be paid to the counties as eventual approximately tax equivalence. The final 25% was to be used, as appropriated, to operate the forest program with any unused portion going to the Treasury General Fund. County opposition to the initial proposal was vehement. The counties also opposed the final provisions, which have been outlined above, even though they reflected modifications designed to attain a better measure of tax equivalence from the O&C lands which once had been on the tax rolls of the counties.

Through an oversight the 1937 acts fiscal provisions were applied only to the 2.5 million O&C acres in 18 counties and overlooked 75,000 similar acres, known as the Coos Bay Wagon Road Grant, in two counties, Coos and Douglas.

In the CBWR case, the counties sought and got acceptance of their desire for a formula that combined the essence of tax equivalence but had a revenue cap. The May 24, 1939 Act (PL 76-85, 53 Stat 753) provides that the CBWR lands will be taxed as are similar private lands but the tax paid

will not exceed 75% of revenue. A carry-over provision also permits making up shortages in one year from averages in revenues in preceedings years. Since 1939 these lands have been valued for tax purposes as other private land and the county millage rate applied. In 1978, when the Western Oregon Severance tax replaced the ad valorem property tax, the Severance procedure became appliable to these lands. These are the only Federal forest lands on a true tax equivalence. They pay far less per acre then do similar Forest Service and the O&C lands in Western Oregon.

In 1976, when PILT was enacted, the Interior Committees omitted the O&C and CBWR lands from eligibility for PILT payments based on the observation that the payments made under the 1937 and 1939 Acts were adequate.

Western Oregon is a microcosm of important Federal lands with National Forest which pay 25%, public domain which pay 5%, O&C which pay 50%, and the CBWR lands on tax equivalence. Thus they provide, at least for this area, which is a major timber revenue producer in the Federal system, a ready comparison between these Federal payments and tax equivalence.

3. The Public Land Law Review Commission

In 1961 President Kennedy suggested that the plethora of public land laws that affected governance of the 480 million acres administered by U.S.D.I.'s BLM needed to be modernized. His was not the first suggestion, but he coupled it with 3 bills designed to eliminate the most pressing problems. Payments to counties were Not on the list.

In the Senate, Senator Bible was moving with a bill he had devised. The Wilderness Bill continued under debate and was favored by the Senate but still not out of Committee in the House, although it had been around

since 1956. The adequacy of grazing fees and the way grazing was conducted as compared to other surface uses continued to produce tensions. While the Mining Law was considered by some, due to it's patenting and "no cost" provisions to be antiquated, mineral issues on the public lands, especially for leasable minerals, were not then of major concern. Public land revenues were modest. Local governments made chronic complaints, but Federally the problem was not considered to be of large dimensions. The counties had a national organization and a western regional organization which generally opted over the years for such conflicting things as low grazing fees and high payments to counties.

The stimulus for a study and a Commission came from the Chairman of the Interior Committee in the House, Wayne Aspinall, rather than a broad public demand. It's development did not include cross consultation with the Senate counterparts, who learned of the bill only after it was introduced.

The Senate particularly Senator Bible who chaired the Public Land Subcommittee, Committee of Interior, preferred his own reform bill. It reflected his view of modest but orderly revision of outmoded laws affecting the governance of BLM lands. So in 1963, when Congressman Aspinall introduced his Commission bill, there were mixed reactions in the Senate, when compared to the Administration's 3 bills to reform BLM operations, and the Commission idea. Senator Bible questioned the cost and the need. His view was that his bill or those of the Administration could deal with recognized problems. Senator Jackson viewed Commissions as not producing viable results. Senator Clinton Anderson wondered whether Congressman Aspinall was serious. When Anderson concluded Aspinall was, Anderson observed tha he wantcd a Wilderness Bill.

In 1964 the Wilderness Act became law, the Administration got it's 3 public land reform bills and Congressman Aspinall's Public Land Law Review Committee was enacted. The land reform bills for BLM were tied to expiration 6 months after the Commission filed it's final report.

The Commission, by law was given a 4 year life, which later was extended due to delays at the outset and during it's life and made it's final report in June 1970.

Proposals for a Commission Chairman and director ran into immediate difficulties with Congressman Aspinall. These were not resolved for several months and only then by Congressman Aspinall assuming the Chairmanship and his staff director on the Committee becoming Commission staff director. By and large the public members took an active role, the House members, except for Congressman Kyl and one or two others, somewhat inactive roles and the Senate members a very limited role. The commission became known as the Aspinall Commission and he largely directed it's efforts. It contracted a number of large, and in some cases, excellent studies and amassed a huge current and historial collection of public laud data.

The final report received mixed reactions. The need for comprehensive modernization of the public land laws remained. New issues and controversies were beginning to impact land management.

Payments to counties was one of the topics considered but it was not treated as a major issue. The 335 page final report dealt with tax immunity in 9 pages assigning the topic to Chapter 14 of 20.

The contract study of this topic was done by E.B.S. Management Cons. Svscse., Washington, D.C., it had 4 volumes, including case studies of 50

counties and states. Vol. I was findings and analysis including alternative systems and the other 3 volumes were the support studies and data.

A 1970 critique of the EBS study pointed out a number of flaws, including showing Federal expenditures on public lands which protected them and private lands as burdens when they were benefits. Roads were also shown as a burden, overlooking several important aspects of federal highway cost sharing and revenue payments. Despite various topical discussions that argued that federal lands were a burden, page 85 of the EBS study also said that they were a net benefit.

Revenue sharing devices do not result in payments to localities related to identified costs. Nor is there any known real measure of local government effectiveness or needs either overall or in relation to Federal lands. They fluctuate.

The 5 major weaknesses in the EBS study were:

1. Emphasis on loses in taxes based on the assumption all federal lands would stay on the tax rolls if placed in private ownership.
2. Derivation of benefits and burdens for local officials without verification.
3. Inconclusive discussion of multiple use.
4. Use of meaningless percentages, averages and comparisons.
5. Use of federal land values by basing them, in 1966 of estimates made in 1954 by GSA for House Committee on Government Operations.

At a 1968 Commission meeting various Governor representatives discussed payments. One contended tha the Federal money for roads was not a local benefit because it drew people away from rural areas thus hurting local business. Another contended that tourism would be as high if there were no Federal lands.

The Commission in it's discussion of the subject in November 1968 went over several points holding:

1. There should be some compensation for Federal lands.
2. Federal lands create both benefits and burdens.
3. The rate of payment generally is not keeping pace with mounting local government costs.
4. Payments vary widely and local governments with large areas of non-revenue producing Federal lands have hardships.
5. Restrictions on use, such as for schools or roads, should be dropped in present laws.

The Commission discussed a plan whereby all revenues from all Federal lands would go to a Fund, out of which appropriations would be made. The residual "profit" would be distributed to the local governments based on the value of the Federal land. The idea never was formally explored due to a number of questions about it's efficacy.

4. Efforts in the 1970's to revise payments to counties and PILT, 1976

After the PLLRC report was made, neither the Nixon or the Ford Administration showed any interest in converting the revenue sharing recommendations of the Commission to a legislative proposal, although they did develop bills which were submitted to reform the public land laws otherwise. Various PILT bills continued to be introduced in Congress by members but the authorizing committees did not move on them and they were opposed by the Administration.

Generally, a revived National Association of Counties, pressed by it's Western Division, sought to stimulate interest in revised payments but for several years no firm legislative proposal evolved.

In 1974 Senator Humphrey and Congressan Blatnik, developed a nationwide proposal which relected their effort to deal with an issue that came to them via 3 Minnesota counties with National Forest Land in the Boundary Waters Canoe Area. Since 1948 these counties had been getting 0.75 of 1% of the "value" of the lands, in lieu of 25% of practically no revenue. However, the counties believed that they were entitled to more and contended both 25% and the 3/4 of 1% were well below tax equivalence. A portion of the area is land that was once privately owned, some very recently.

The legislative solution Humphrey and Blatnik proposed would permit any county which believed that the payments from National Forest land were not at least 90% of tax equivalence to petition for a review and determination. The counties would bear proving the cost out of receipts that would otherwise be paid from the national forest. This was designed to discourage wholesale filings without a reasonable justification. It also was designed to reduce the Federal cost since local governments bear the cost of operating their private land valuation and assessment procedure. The bills were not favored by the Administration and no action was taken. Following this NACO urged Congressman Evans to propose a bill which would leave the present formula's "as is", but pay a fixed sum per acre to every county after considering the payments already made. This bill developed wider congressional support but was strongly opposed by the Ford Administration. As introduced the NACO bill presented a series of very real problems, a principal one being that counties with a huge Federal land base, with low Federal regular payments and low needs, would receive large PILT grants. With the assistance of NACO and U.S.D.I., but without Administration endorsement,

caps were developed which sought to limit payments in dollars based on land acreage and population. Despite these efforts to contain costs the bill remained strongly opposed by the Ford Administration.

Nevertheless the House and Senate passed the bill and it was sent to the President who, according to OMB, still intended to veto it. However, on October 24, 1976, shortly before that Presidential election, it was signed into law.

Colateral Action: The National Forest Management Act and Mineral Leasing

The 1976 NFMA made a major change in the method by which the payments to counties of 25% of National Forest revenues are computed. As revised gross timber revenues used to compute payments were changed to include the Knutsen-Vandenberg Act collections which are appropriated for reforestation and stand improvement, plus the Forest Service reduction in gross timber sale value to cover the allowance to purchasers when they are required to build roads under timber contracts. Thus substantial sums long excluded from the gross revenue are now used to compute the counties 25% share. Thus over $300 million annually in gross revenue, or over $75 million more per year were paid to the counties, commencing with FY 1977.

Also in 1975 the Mineral Leasing Act was revised, as part of a change in the Coal Leasing Act, to also raise the percentage of enlarged income being paid to the States from 37 1/2% to 50%. The added 12 1/2% was to go to areas in a State adversely impacted by increased mineral extraction. However, the States get the extra 12 1/2% whether or not there is mineral development impacts and the State is not compelled to pass the added funds to the counties.

PILT 31 U.S.C. 1601 PL 94-565 October 20, 1976

In it's broad purpose this Act provides local governments with two alternative supplemental payments beyond those paid under the 10 (now 12)

regular revenue sharing laws applicable to natural resource lands. A county can receive whichever is higher (1) 10 cents per acre or (2) the sum needed after payments under the regular acts to total $0.75 per acre.

The Ford Administration's statement of strong opposition included these points:

1. A comprehensive study of benefits, costs and effect should be undertaken.
2. An arbitrary formula, such as that in the bill, could lead to gross inequities. Payments would remain unrelated to problems.
3. Any estimate of added payments will be arbitrary unless benefits from federal lands and tax revenue lost due to Federal land and are considered.
4. There now are numerous programs that make payments, some of which are related to Federal acreage or Federal impact such as the Highway Act sliding scale formula and their role are benefits.
5. Administration would be complex.
6. Most of the existing laws do not require the State to redistribute the money. States could retain these funds in their entirety and counties could also receive 75 cents per acre in PILT money.
7. The park payment procedure makes dual payments for 5 years.

In sum the Administration said the bill would increase existing problems and exacerbate inequities. This was the Administration's position prior to the 1976 modification of the National Forest formula which added over $75 million annually to these payments.

The examples of inequities these bill would treat cited in the House and Senate reports raise questions. They cited Pope County Illinois saying the National Forest was 40% of the land in the county and a lower timber harvest in 1975 compared to 1974 had halved Forest Service

25% payments. As a result the report aid the county had to "discharge all of its employees and inform county officials that they could not be paid in the immediate future."

Pope County received only $13,579 for the F.S. in 1974 and $7,957 in 1975 a drop of only $5,622. It's county budget was about $700,000 and National Forest payments were 1 to 2% of the total county budget. It has about 75 local government employees.

It is hard to envision that a $5,600 drop in total revenue would lead any county to lay off 75 employees and tell officials they can not expect to be paid in the immediate future. In addition, the funds, under law are allocated to schools and roads. Annual county expenditures for schools were about $430,000 and for roads about $60,000 in that period.

Despite this significant error in facts as to this Illinois County, the Committee reports did set forth the eight problems that revenue sharing approaches can present. These were:

1. Only revenue generating lands produce income.

2. Revenues may fluctuate annually and may drop from prior levels without advance notice to the local government. The report correctly shows that in times of low economic activity, when local governments may be in most need of funds, revenues may drop.

3. Federal lands prohibited by law from generating revenue may still have uses which create a demand for local governmental services. This point is similar to (1).

4. The percentage of federal revenue shared varies from 5% to 90%. The report does state that the percentages are not based on any rational criteria and this aids in focusing on this point. The report failed to note that the 5% rate has existed for land sales since 1803. Now only $7,000,000 in revenue comes in annually and this is mostly from timber sold in Western Oregon. Only $350,000[15] paid the counties from this source. Mineral Leasing, enacted in 1920, typically pays 50% and now pays over $300,000,000. Alaska since Statehoood has gotten 90% of mineral revenue.

5. Many of the formula laws restrict local government fund use to specific purposes. Thus it is argued, even if the level of payments equals tax equivalence, the use restriction hurts local flexibility.

6. Many of the laws permit the State to make the distribution and to even fail to allocate funds to counties so they can provide services caused by the presence of Federal lands. The Administration also pointed this out, suggesting that the enactment of PILT could accentuate this. Since PILT the States have held back more of the regular funds thus increasing the call for PILT funds.

7. Revenue sharing provisions invite pressures for unwise land management actions on the agencies. The Committee cited a similar statement by PLLRC and observed that local governments will oppose such things as Wilderness based on loss of revenue plus pressures to increase production at the expense of sustained yield and environmental goals.

8. Most importantly, the Committee said should revenue systems seldom approach (i) ad valorem taxes that are paid by similar private lands and (ii) the level of services and facilities local governments must provide due to Federal lands or generated by the Federal lands on private land activities.

While the PILT bill provided a vehicle for making changes in existing laws that would deal with many of the cited problems, such as restrictions on use and assurance of pass thru where not specifically provided, none of these basic problems in existing law were treated when PILT was enacted.

The Committee reports also cite Itasca County Minnesota as an example saying the Chippewa National Forest is 27% of the County and payments run at $0.09 per acre or a total of $27,000 compared to claimed $500,000 local government costs related to the National Forest. Itasca County has 308,000 acres of National Forest, only 18% of the County, not 27%. None of the National Forest is Wilderness, all is under multiple use. It also has 3 State Forests and an Indian Reservation. The County Data book for 1972 showed a 1967 budget of $16.8, MIL, 49% for Education, 13% for Roads and 23% for Welfare and Hospitals, with 15% or $2.5 million not specified. Local

Taxes provided 53.5% of governmental revenue, ($9.2 million) and Intergovernmental revenue 31.7% ($5.7 million). The county per capita income was 18% above the State average. By 1980, due to the changes in the NFMA, payments from the National Forest had climbed from $0.09/ acre to $0.28 or 3.1 times higher. In 1979 payments were $105,109, but BLM reported only $46,909 for the 1980 PILT calculation. Thus PILT on overpaid $58,140. Further BLM's acreage figure for National Forest land, 303,783, does not agree with the Forest Service's 307,787 acres.

Therefore, Itasca County, under BLM's reporting claimed combined PILT-FS payments at $225,876 when in fact it got $284,016.

Lincoln County, Nevada is another cited in the report as being 98.12% Federal land. The PILT acreage shows only 95.9% of the county and is 6.5 million acres. This county, despite the slight difference in percentages, is almost all Federal land. It's revenue from the BLM-FS land is negligible- about $8,000 on 5.8 million acres of BLM-FS land. In 1967, with a population of 2,557, it had a $1.2 million budget of which 57.6% went to education and 8.4% to roads with welfare and hospitals taking another 10%. Intergovernmental revenue was 58.5% of funds and local taxes 30.6%. Per capita local taxes were $136 compared to a state average of $149.

In comparison Nye County, Nevada, which has 8 1/2 million PILT acres had local taxes at $205 per capita, while Elko County with 7.8 million PILT acres had local taxes at $137 per capita. Nye and Elko got 44% of their funds from local taxes, while Lincoln got only 30.6% from local taxes. At one point the report cites Lincoln County, Nevada as having 3,500 people, compared to a 1970 Census figure of 2,557. The 1980 Census pegs the population at 3,732, which is a 46% increased despite the fact that 98% of the County is said to be

Federa land. This would suggest that the growth in county costs might be more related to tremendous population growth than the stable, but large, low income producing Federal land base. Nevada, during this decade has a population growth of 64% and now has 800,000 people.

The Committee report states that the Lincoln County budget is $100,000 and only 1.3% is offset by Federal contributions. The County Data Book gives a totally different picture, with a 1967 budget at $1.2 million, with $700,000 from Intergovernmental funds and about $370,000 from local taxes.

Mineral County, Nevada also is defined as one which has a severe strain placed on its budget by recreation based on Federal lands. In Nevada in 1967, 45.5% of the local budget came from property taxes, but in Mineral County only 21.2% came from this source. Intergovernmental funds provided 29.8% of local budgets, statewide, but in Mineral County this was 53.1% of the county funds source.

Cocke county, Tennessee, is cited as receiving only $6,800 from the National Forest in 1975. However due to the NFMA change it received $16,721 in 1979 but BLM said it got only $12,243. N.F. payments had risen 2.46 times but BLM showed them up only 1.8 times. The combined F.S.-NPS acreage for the county is also cited in the Committee report as 35% of Cocke County, when the total, 63,777 is but 23 1/2% of the 271,000 acres in the County.

In numerous situation the data supplied to the Committees, and on which they relied, does not seem to be correct in basic particulars. These data do raise a question as to whether the problems are well defined which led to PILT's enactment.

Of greater concern, is that the defects cited by the Committees in the shared revenue approaches have not been met equitably under PILT, while the kinds of new problems that would be produced by PILT, were accurately defined by the reports made in the Ford Administration.

Using the two most important criteria cited by the Committee report on PILT, relation of payments to ad valorem taxes on similar private land and level of expenditures that are not compensated occassioned by the Federal presence, PILT does not treat situations even-handedly.

5. The Reagan Administration Proposal to Reform PILT

The outgoing Carter budget proposed no 1982 PILT funds. On May 13, 1981, the Department of the Interior submitted a proposal based on an amendment budget estimate of $45,000,000 for PILT. In essence every eligible county would get under this revised PILT, regardless of its regular payment level, at least 10 cents per acre, except for Alaska and Nevada.

Five changes are proposed in the Act:

1. Consider all payments made under regular revenue sharing acts as having been passed thru to local governments on a proportional basis for distribution among units of government eligible for PILT payments. This would be a substantial improvement over the current practice of Interior asking the local governments what they received in the prior year and using it to compute the current payment to be made under PILT.

2. The "fee lands" in the Refuge system of F & WL Service would be added to the entitlement acreage.

3. At the same time the Refuge Revenue Sharing Act (16 U.S.C. 715s) would be amended to delete making payments from apporpriated funds for fee lands in the Refuge System. This would result in similar treatment of fee and reserve lands under the Refuge Revenue Sharing Act.

4. Six revenue sharing prorams would be added to the list of regular PILT (Section 4) payments. These are:

Section 4 amended by adding:	1981 Payments
(11) 33 U.S.C. 701c-3, Corps of Engineers	$4,625,000
(12) 16 U.S.C. 40a, Yellowstone, schools	250,000
(13) 16 U.S.C. 406d-3, Grand Teton, schools	25,000
(14) 16 U.S.C. 695m, Oregon & California refuges	150,000
(15) 43 U.S.C. 618a, Boulder Dam, Arizonia and Nevada	600,000
(16) 68 Stat. 719 Trinity River California	9,000
	$5,659,000

While the Corps of Engineer payments go to several states, the balance are specific to projects in one or two states. The sums are small, in relation to the total Section 4, regular payments, but do cover a series of related payments.

5. The Section of PILT which provides for double payment as compensation for lands acquired as a part of the Redwood Park and additions to the Park and Wilderness System would be repealed.

On the average for the 464,765,000 acres to be covered by PILT it would appear that $0.10 per acre would be paid. However, the average is not always true. As in the past two States, Alaska and Nevada, because of their small population and large acreage are affected by the cap, they would get only $0.046 and $0.066 per acre. Twenty-four states would get about 10 cents per acre including getting large revenue sharing payments.

Another group would get PILT supplements over 10 cents per acre. Twelve would average $0.11 to $0.16 per acre, 4, from $0.20 to $0.30 per acre, 1 from $0.40-50, $0.50 per acre while 5 would get over $0.50 per acre. These are Delaware - $0.51, D.C. - $0.73, Virginia - $0.607, Virgin Islands - $0.731 and West Virginia - $0.566 per acre.

However, when PILT and Section 4 payments are added together the per acre payment picture changes considerably.

Using the Administration's data for the 54 jurisdictions (50 States plus 4 Territories) the Section 4 plus PILT payments per acre are as follows.

States Getting Less than $0.75/acre	Section 4	+	PILT	=	Total
Alaska	$0.10	+	$0.04	=	$0.14
Nevada	0.17	+	0.06	=	0.23
Arizona	0.26	+	0.18	=	0.44
New Hampshire	0.35	+	0.33	=	0.68
Utah	0.59	+	0.10	=	0.69
Minnesota	0.56	+	0.15	=	0.71
Vermont	0.59	+	0.14	=	0.73

These 7 States, with PILT supplements of from $0.04 to $0.33 cents per acre dues to acreage caps, do not get $0.75 per acre when regular payments under Section 4 of PILT are prorated. There are 14 more States that get $0.75 per acre. D.C. gets a flat $0.75 per acre from PILT. There are 11 more that get supplements from PILT of from $0.24 to $0.46 to reach $0.75. Three get only a $0.10 per acre supplement.

There are 33 States that get over $0.75 per acre, including a $0.10 PILT supplement. Five get from $0.85 to $0.99 per acre, 3 get from $1.08 to $1.99 per acre. Three receive from $2.24 to $2.51, an additional 6 get from $3.01 to $3.83, while 3 more get from $4.21 to $4.45, Two additional States get $5.03 and $5.77, while one gets $64.74. The top 6 are:

Wyoming	$4.11	+	$0.10	=	$4.21
Mississippi	4.18	+	0.10	=	4.28
Massachusetts	4.35	+	0.10	=	4.45
New Mexico	4.93	+	0.10	=	5.03
North Dakota	5.67	+	0.10	=	5.77
Rhode Island	64.64	+	0.10	=	64.74

The average Section 4 payments for the 465 million acres is $1.27 per acre. However, this a meaningless figure because of the way the Section 4 formulas work in actual practice in every State. The average PILT supplement, $0.09 per acre, is likewise meaningless.

A table 1 attached does show the Section 4 payments plus 10 cents per acre as proposed by the Administration. It is estimated that only about $25,365,000 would be required to pay the 21 states PILT supplements to bring their payments up to either $0.75 per acre or the maximum under that level that the PILT cap permits. The other 33 States would then get from $0.75 to $64.64 without a PILT $0.10 per acre supplement. These 21 States are shown by a "*" on the attachment.

Exclusive of PILT 4 States receive 68% of the Section 4 funds:

1. California	$ 62,242,000				
2. Oregon	100,397,000	+	$98,100,000 (O&C and CBWR lands) =		198,497,000
3. New Mexico	111,582,000				
4. Wyoming	121,508,000				
Sub Total	395,729,000				493,829,000
All States	593,945,000				692,045,000

However, if the O&C - CBWR funds in Oregon are included, these 4 States get 71% of the total and Oregon moves from #3 place with 16% of the payments to #1 place with 29% of the payments.

6. Basic problem with Administration's proposed revision of PILT

The Administration's estimate of the cost of their proposal is based on assumptions about the distribution of shared revenues that are not supported by the clear languge of several laws or the legislative history of others. Thus the distribution will not be as the Administration outlines it and the likely cost will be considerably higher. It would be reasonable to expect the legislative committees to differ with the Administration based on existing law under the regular formulas. It would be reasonable to expect the counties and the States to be able to present formidable objections to the administration's computations even if they agreed in principle that revenues not now counted as distributed ought to be in the base used to compute the PILT payment.

The National Forest, Bankhead-Jones and Grazing fee provisions require an allocation of funds to the counties where these specific lands are situated. BLM in it's operation of PILT has heretofore relied on data supplied by the States as the actual amount the counties received. These figures have often been far less than the Forest Service, for example, shows that county is to get based on 16 U.S.C. 500. There is no basis for presuming that the revised PILT act would rest on the Administration's erroneous estimates.

For Arizona BLM shows 28,040,647 acres of Federal land paying $7,158,411 from all shared revenue acts, or an average of $0.25 per acre. However, the Forest Service data alone shows that Apache Co. go $0.38, Coconino got $0.78, Greenlee got $0.34, Mohave got $0.82, Navajo got $0.77 and Yavapi got $0.25. The other counties got under $0.25 per acre but the State average is $0.39, not the $0.25 BLM shows.

To correctly show the money that should be allocated the National Forest land should be laid out separately then the pro-rata share of Mineral Leasing revenue applied. The same should be done with BLM land, which pays only a few cents per acre. This would give a more practical presentation of cost and effect.

New Hampshire is another case, being predominately National Forest land, 700,153 acres according to the F.S., which ought to know, versus 693,258 acres according to Interior. It also shows 17,738 for the Corps of Engineers, (compared to 18,508 in its Public Land Stat., 1979). In any event National Forest is over 97% of the Federal land in New Hampshire. The Forest Service shows $241,870 paid, and, with the Corp's assumed payments, Interior's $252,588 is reasonable. This averages $0.35.5 per acre. If the data is correct the Corps land pays $.60 per acre. Merrimack Co., which has a reported 2,975 acres of Corps land and no National Forest is shown as getting only 35.5 cents per acre when the Corps shows it get $0.60. The amount it actually got is understated by the difference between $1,785 - $1,063 = $722.

A third example is Montana where 27,201,270 acres Interior says receives, all told, $20,628,854 or $0.758 per acre in regular payments. Lincoln County is 98.2% National Forest and 1.8% Corps, for a total of 1,785,129 acres according to BLM (The FS shows 9,242 acres more than BLM). At any rate, the FS says Lincoln County got $1.45 per acre from the National Forest alone. BLM averaging all receipts and all acres for the State says Lincoln County gets an average of only $0.758 per acre or $1,353,253 compared to the $2,559,307 the Forest Service shows. This is a difference here of —

$1,206,054 for this County. PILT would add $178,513. Perhaps the county should get less, but if it should there ought to be a reason, not a theoretical computation.

If the State of Montana applied the logic in the Administration's calculations to Lincoln County, it would lose $1,027,541 even though under 16 U.S.C. 500 it is properly entitled to $2,559,307.

Even larger problems loom in Oregon. There are 29,174,815 entitlement acres, with the Forest Service holding 15,070,099 according to BLM (51.7%), BLM has 13,299,061 (45.6%), with 4 other agencies holding the balance, 875,655 acres, or 2.7%. On a revenue basis BLM shows all agency regular payments total $100,356,835. The Forest Service $98,999,365, accounts for 98.5% BLM would be most of the other 1.5% or $1,468,470. Under 16 U.S.C. 500 the National Forest payments would go to the counties where the National Forest are. Each forest payment is computed separately to prorate the acreage to each county it is located in and the funds shown a distributed on this basis.

For example Harney County has 293,876 Malheur National Forest acres, which paid $716,890 or $2.44 per acre, while the Ochoco's 223,234 acres paid $867,719 or $3.89 per acre. The average for the 517,110 National Forest acres in Harney Co., was $3.06 per acre. This compares with a Statewide Forest Service average payment of $6.65 per acre with ranges from $1.57 to Union County on to 4 counties, Benton, Lincoln, Tillamook and Yamhill that derived $19.66 per acre.

In contrast, the Administration combined BLM and National Forest, plus the 4 agency acreages to compute the entitlement to prior year payments statewide as 29,174,815 acres into $100,396,835 = $3.44 per acre. It combined

the low revenue acres in Eastern Oregon counties with the high revenue acres in Western Oregon, then assumed that the funds would be distributed evenly per acre to all counties despite the structures of the applicable laws.

Harney County in Eastern Oregon has 4,821,306 acres and BLM computes it would get in prior year payments, $16,595,556. Even considering BLM land, it may have gotten, in fact, about $900,000.

In contrast, Lane County in Western Oregon has parts of 3 National Forests and 1,320,634 National Forest acres, which compose 96.6% of the entitlement acres in that County. The Forest Service shows that $21,198,686 was paid them while BLM shows the payment at only $4,708,611. It then computes an added PILT payment at $136,752 for a total of $4,845,183 or -$16,353,503 less than the actual Forest Service payment.

In the real world it is unlikely that Lane County would agree that its share of regular shared revenues should drop $16.4 million, and that Harney County should get $15.7 million more. Even more compelling is that there would be no logic in making such a distribution. While it may be that similar private land in Lane County pays local taxes at a rate of about $9.00 per acre compared to the $16.05 now paid by Forest Service lands alone, neither 16 U.S.C. 500 nor PILT's reform are based on not paying over tax equivalence. On a tax equivalence basis the national forest payment would be in the $10 to 12 million range which is far higher than the Administration proposed $4.8 million level.

At the same time, there is no evidence that suggests that the 4.8 million acres of range and forest land the BLM and Forest Service have in Harney County, would pay BLM's estimated average of $3.44 per acre if on the Harney

County tax rolls. Harney County has 1,700,000 private areas. Based on prorating 1967 local property taxes for all private land, including improvements, and after considering inflation etc., the estimated tax equivalent would probably not exceed $1.00 per acre or $4.8 mil. versus the Administration calculation of $16.6 million under regular revenue sharing.

The Administration's erroneous calculations are not a reasonable depiction of what is paid under existing law from timber, grazing and other non-mineral uses. Good data would have developed a far different set of likely distributions.

(b) Mineral Leasing Funds

The Administration also inaccurately depicted the likely distribution of the 50% of Mineral Leasing revenues that are shared with the States. They assumed that all of the 50% would be spread evenly among the counties. The legislative history does not support this estimation. The first 25% (or half of the 50%) does represents legislative intent for the share of Mineral revenues to be used for the benefit directly of counties. The next 1/4, or 12 1/2%, has a legislative history that suggests intended use for higher educational institutions such as State Colleges and Junior colleges. The next 1/4 (12 1/2%) is available for use with wide discretion by the State unless it determines that it should be targeted to counties severely impacted by mineral development. Where a State determine impact from mineral extraction from Federal lands this 12 1/2% is to be allocated to those counties. However, the law does not direct, nor does the legislative history, describe, any specific apportionment. The State may use the funds in any way it desire, including a general distribution even to counties with no minerals.

distribution to all counties. This suggests that for general estimates only half of the 50% should be prorated to counties.

The major recipients of Mineral Leasing Funds are

	50% Total $	Per Acre	25% (1/2) Total $	Per Acre
1. Wyoming	$118,427,000	4.00	59,214,000	2.00
2. New Mexico	108,177,000	4.78	54,088,000	2.39
3. Colorado	25,056,000	1.07	12,528,000	0.53
4. California	23,598,000	0.55	11,799,000	0.27
5. Utah	18,155,000	0.56	9,077,000	0.28
6. Montana	11,809,000	0.43	5,904,000	0.22
7. Nevada	8,250,000	0.14	4,125,000	0.07
8. N. Dakota	5,614,000	2.64	2,807,000	1.32
9. Idaho	2,964,000	0.09	1,482,000	0.045
10. Alaska*	2,610,000	0.03	1,305,000	0.015
Subtotal	$324,660,000	0.91	162,330,000	0.455
Other 15 States	6,766,000	0.34	3,383,000	0.017
Total	$331,426,000	0.71	165,713,000	0.355

*Alaska, pays 90% of revenue to State.

Instead of using the entire $331,426,000 and applying it state by state, it would have been more realistic to use half of the 50% or $165,713,000 as the probable county share.

In a State such as Wyoming, the leader in mineral revenues, the situation in Albany County would shape up more like this. BLM shows 682,847 entitlement acres in the county and projects all regular revenue sharing would be $2,807,665 or $4.11 per acre. Bearing in mind that the Administration has already mixed Forest Service and BLM lands and revenues together, even before Mineral Leasing is considered, they have introduced error due to unrealistic assumptions. The Forest Service 379,141 acres paid $83,024 or $0.22 per acre. If all the BLM land in the county is Section 3 Taylor Grazing Act land, BLM paid on 303,416 acres, about $6,068 or $0.02 per acre. Applying Mineral receipts at half the Administration's rate reduces payments to $2.00 per acre. Thus BLM land would yield $2.02 per acre, while National Forest would yield $2.22 per acre or a total of about $1,454,000 compared to the $2,808,000 the Administration computes. This is a difference of $1,354,000 by which the Administration overstates the likely distribution when Mineral revenues are involved. If the County were judged impacted by mineral development, it might get another $682,000 or even more from the State share of mineral revenue.

The Administration methodology implies that Forest Service payments which are generally much higher than BLM's can be moved to ineligible counties, while at the same time spreading the entire 50% of the Mineral revenues, instead of using only half of the 50%.

In the top 10 States receiving Mineral payments the level, at 50%, payments range from $0.03 per acre in Alaska to $4.78 in New Mexico. While in the

other 15 States the average is $0.034 per acre. The Mineral receipts are concentrated in a few States. Wyoming and Nex Mexico get 68%, while the next 8 States get 30%, leaving 2% going to the other 15 sharing States.

The Administration's inaccurate presentation of the effect of their proposed approach in most cases would not controvert the fact that any way computed most western counties would not get more than an added $0.10 per acre under PILT. However, it can be quickly expected that counties that are not getting the enlarged return that the Administration erroneously shows, will soon be arguing that the Administration's tabulation has created this larger expectation. In some counties, particularly in States where under the revised PILT real losses will occur, the case will be presented strongly.

Under the Administration rationale, its reformed program suggests in Federal payments of regular funds, plus PILT the residents of Park County Wyoming will get in excess of $7,000 per person which may exceed their per capita money income. It is doubtful that a typical family of 4 in that county pays local taxes that would aggregate $28,000 annually, no matter what the size of their holdings.

In 1967 Park Counties entire budget was $7.8 million of which 58% went to education and 7% to roads. Local Property taxes accounted for 61% of revenue and Intergovernmental funds for 23%. Local property taxes were $254 per person. Despite inflation and mounting local governmental costs, a 1981 Federal revenue sharing payment at a $7,000 per person level hardly seems to have a viable rationale.

In 1967, based on the 1,600 people and a $254 per person tax, Park County raised $406,000 in property taxes on homes, business property on the 1,020,000 acres of private land. This equals $0.40 per acre and logic suggests that forest and rangeland, which would dominate the county, was taxed at a lower average rate. A current projected Federal payment based on the conservative level developed, $2.13 per acre, even if compared to current local taxes, assuming they have risen to $0.80 per acre, including improvements, would be a Federal payment nearly 3 times tax equivalence. No evidence exist that Park County or any of the others getting far more tax equivalance from Federal lands are special hardship cases.

A wide disparity will continue to exist under the proposed revision. The $60,000,000 budgetary saving is the only substantial goal that can be identified and it may not be met.

The Administration proposal will pay an extra $0.10 per acre to a county getting $19.00 per acre in regular funds but only $0.10 per acre to one getting $0.05 in regular funds, regardless of tax equivalence.

By avoiding any tax equivalence test that might take effect when payments for certain classes of land, such as timber minerals or grazing go above the general level applicable to such lands in private ownership, a substantial additional amount also will continue to be paid at the extra 10 cents per acre to be paid under PILT.

The new system of calculation assumes that the funds paid to the State are forwarded to a county. They need not be for the county to receive PILT funds. Thus there is no incentive created by the Federal Government to cause the State to send money to a county that needs the theoretically planned Federal aid. If, for example, the added $0.10 were to be paid only when

the regular payment plus PILT was below tax equivalence, the State would have an incentive to distribute all shared revenues equitably to local governments so that the added PILT payment would go to the truly needy counties.

The Administration reform does not include in PILT either the O&C or CBWR lands, 2.6 million acres in 18 Western Oregon Counties, receiving an estimated $115,000,000. They do not now get PILT funds. However, in these counties, the total payments, or the individual BLM O&C and Forest Service payments, if considered separately, now appear to substantially exceed taxes paid on similar private land. The CBWR lands are on exact tax equivalence.

The proposed reform does not deal with structural problems that previous analysts such as PLLRC and the authorizing Committees have cited. PILT will be largely pegged to $0.10 per acre. However, in numerous States the regular shared revenues will fluctuate by amounts much wider than this thus affording no degree of predicability to total revenue from the Federal land source.

There is nothing in the proposal that better ties total payments to identified burdens and benefits. Thus the changes do not produce a better measure of reasonable, proper and equitable payments.

For example, the Administration would reduce PILT payments to Montana from $8.2 million in 1980 to $2.7 million in 1982, a drop of $5.5 million or 2/3rd's. Montana gets substantial regular payments, about $18,000,000 in FY 1979, and an estimated $20,629,000 for 1980. In 1979 Oregon received $122,000,000 from BLM and Forest Service in regular payments plus $97,000,000

in O&C and CBWR funds for a total of $219,000,000. PILT paid an additional $2.8 million and under Interior's proposal it would still pay $2.7 million, a 4% reduction. In 1980 regular F.S. payments dropped to $100,397,000. O&C and CBWR payments were 98,131,000, for a total of 198,528,000. This was $21 million less than in 1979. While payments may be well above tax equivalence, this is not the issue. Several counties, having set their budget and overall tax levels had to be severely impacted by the anticipated change. A PILT supplement at $2.8 million, since it is already present doesn't cushion the $21,000,000 drop one bit.

In contrast Illinois is slated for an 86% cut in PILT funds from $327,000 to $48,000 and its total National Forest payments, the major source are about $53,000. On a percentage basis a number of the States with small regular payments will be the bigger percentage losers. However, States such as Idaho, which received in 1980 $6.8 million in PILT funds will drop to $3.2 million or 53% below the 1980 level. Idaho, in 1979 got $2,856,000 from BLM acts and $13,805,000 from the Forest Service for a total of $16,661,000. Thus, exclusive of PILT, it received $0.51 per acre of Federal land while Illinois received about $0.12 per acre. In contrast, considering all eligible lands plus the O&C, Oregon got about $7.00 per acre.

7. Other Federal Programs

There are a number of other Federal programs that provide funds that are allocated to counties or which as allocated benefit counties. Some of these, such as Highway program, provide significant additional Federal dollars based on the presence of Federal lands. For example for every dollar spent in Idaho on the Interstate and ABC system about 90% is Federal, in Oregon it is

about 88% and in Nevada it is about 95%. In Illinois the ratio barely departs from the basic 75% Federal share. It is 75.18%. This is also true in such states as Minnesota, Michigan, Wisconsin, Ohio, Pennsylvania, Virginia, and generally in the South.

For many other programs that relate to hospitals, law enforcement etc. there are specific grants that are developed based on presented local needs. A number of these programs are slated for budget reductions under the Congressionally endorsed proposals made by President Reagan. This will accentuate the efforts by local governments and their States to secure additional funds from programs such as PILT. The web of these programs is large and intertwined and efforts to sort them out in a catalogued manner present numerous difficulties. A number of examples of programs were cited when PILT was enacted as related to activities that are demanded of local governments because of the presence of Federal lands.

It has not been possible to trace the Federal funds to specific local governments in a way that shows whether those with Federal lands have been able to take advantage of the problems counties contend exist and secure their recognition in such Federal programs. Under the block grant concept, at least in theory, Federal lands are an aspect that can be considered in apportionment of funds. That could be a local option.

The major thrust of the proposed PILT reform submitted by the Administration is a $60,000,000 budget reduction. It does not correct fundamental problems that local governments may actually have by allocating funds equitably to those that can identify their problems and relate them to Federal lands. Some States with large Federal revenues from Federal lands will experience small cuts, while those with small revenues will experience larger cuts. None of the Administration's material addresses these problems, nor does it create an appreciably more equitable program under PILT and revenue sharing from Federal lands.

TABLE 1.—ADMINISTRATION'S ESTIMATE OF SEC. 4 (REGULAR PAYMENTS)

[INCLUDING 6 ADDITIONAL LAWS AND ACREAGES, SHOWING ENTITLEMENT ACRES, TOTAL DOLLARS AND DOLLARS PER ACRE, PLUS ESTIMATED PILT PAYMENTS. NOT ADJUSTED TO CORRECT FOR STATUTORILY REQUIRED DISTRIBUTION OF CERTAIN SEC. 4 PAYMENTS OR AUTHORIZED ALLOCATIONS OF MINERAL LEASING REVENUES TO STATE PURPOSES. FISCAL YEAR 1982 ESTIMATE]

	Entitlement acres	Sec. 4 payments		PILT payments		Sec. 4 plus PILT	
		Amount	Cost per acre	Amount	Cost per acre	Amount	Cost per acre
Alabama	726,400	1,101,100	1.51	72,700	0.10	1,173,800	[1] 1.61
Alaska	87,082,800	9,118,900	.10	3,782,900	.04	12,901,800	.14
Arizona	28,040,600	7,158,400	.26	5,139,000	.18	12,297,400	.44
Arkansas	3,394,000	5,206,400	1.56	333,700	.10	5,540,100	[1] 1.66
California	42,981,100	62,242,800	1.44	4,265,000	.10	66,507,800	[1] 1.54
Colorado	23,417,200	27,435,100	1.17	2,295,000	.10	29,730,100	[1] 1.28
Connecticut	6,600	11,400	1.73	600	.10	12,000	[1] 1.83
Delaware	30,600	96,000	3.13	3,100	.10	99,100	[1] 3.23
District of Columbia	6,800	0	0	5,100	.75	5,100	.75
Florida	2,235,700	2,195,400	.98	223,800	.10	2,419,200	[1] 1.08
Georgia	1,698,600	1,664,700	.98	170,000	.10	1,834,700	[1] 1.08
Guam	300	0	0	200	.75	200	.75
Hawaii	48,700	51,300	1.05	4,900	.10	56,200	[1] 1.15
Idaho	32,510,500	13,722,100	.42	4,410,700	.32	18,132,800	.75
Illinois	487,500	433,700	.89	48,800	.10	402,500	[1] .99
Indiana	302,000	129,800	.42	96,700	.32	226,500	.75
Iowa	197,600	275,300	1.39	19,800	.10	295,100	[1] 1.49
Kansas	382,500	1,322,200	3.45	56,300	.14	1,378,500	[1] 3.59
Kentucky	1,071,100	340,900	.31	462,400	.43	803,300	.75
Louisiana	948,100	3,392,700	3.57	94,900	.10	3,487,300	[1] 3.67
Maine	72,500	61,200	.84	7,300	.10	68,500	[1] .94
Maryland	65,100	122,800	1.88	6,500	.10	129,300	[1] 1.98
Massachusetts	37,700	164,200	4.35	3,800	.10	168,000	[1] 4.45
Michigan	2,097,200	1,051,500	.50	521,400	.24	1,572,900	.75
Minnesota	3,193,600	1,807,600	.56	474,400	.15	2,282,000	.71
Mississippi	1,595,300	6,675,300	4.18	159,700	.10	6,835,000	[1] 4.28
Missouri	2,067,900	4,534,900	2.20	207,100	.10	4,772,000	[1] 2.30
Montana	27,201,300	20,628,900	.75	2,768,500	.10	23,347,000	[1] .85
Nebraska	492,300	653,500	1.32	49,200	.10	702,700	[1] 1.42
Nevada	56,955,300	9,791,000	.17	3,802,400	.06	13,593,400	.23
New Hampshire	711,100	253,000	.35	235,600	.33	488,600	.68
New Jersey	74,900	279,900	3.73	7,500	.10	287,400	[1] 3.83
New Mexico	22,616,400	111,582,000	4.93	2,125,100	.08	113,707,100	[1] 5.03
New York	163,300	133,600	.81	16,300	.10	149,900	[1] .91
North Carolina	1,725,000	854,900	.49	438,900	.25	1,293,800	.74
North Dakota	2,118,700	12,019,800	5.67	211,900	.10	12,231,700	[1] 5.77
Ohio	291,000	151,600	.52	66,700	.22	218,300	.75
Oklahoma	1,350,900	2,899,600	2.14	135,300	.10	3,034,900	[1] 2.24
Oregon	29,174,800	100,396,800	3.44	2,693,300	.09	103,090,100	[1] 3.53
Pennsylvania	648,400	782,200	1.20	64,900	.10	847,100	[1] 1.30
Puerto Rico	27,900	21,800	.78	2,800	.10	24,600	.88
Rhode Island	200	14,400	64.64	24	.10	14,400	64.74
South Carolina	831,600	2,006,700	2.41	83,200	.10	2,089,900	[1] 2.51
South Dakota	3,121,800	2,061,300	.66	312,700	.10	2,374,000	.76
Tennessee	1,128,700	535,900	.47	310,600	.27	846,500	.75
Texas	2,548,000	2,532,500	.99	255,300	.10	2,787,800	[1] 1.09
Utah	32,814,500	19,523,100	.59	3,248,500	.10	22,771,600	.69
Vermont	272,500	162,000	.59	38,200	.14	200,200	.73
Virgin Islands	13,700	1,900	.13	8,400	.61	10,300	.75
Virginia	2,187,700	613,500	.28	1,027,300	.46	1,640,800	.75
Washington	11,395,800	33,274,600	2.91	1,139,600	.10	34,414,200	[1] 3.01
West Virginia	1,087,500	415,100	.38	400,500	.36	815,600	.75
Wisconsin	1,445,900	500,300	.34	582,200	.40	1,082,500	.75
Wyoming	29,548,000	121,507,700	4.11	2,929,700	.10	124,427,400	[1] 4.21
Total	464,765,000	593,945,200	1.27	45,770,000	.09	639,715,200	[1] 1.36

[1] States receiving more than $0.75 per acre without PILT.